

Closed Caption Log, Council Meeting, 11/03/11

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Mayor Leffingwell: Good morning. I'm austin austin mayor lee leffingwell. We begin with the invocation if deacon bill hobby is here. Is deacon hobby here? So he is not here so with that a quorum is present so I'll call this meeting of the austin city council to order ON THURSDAY, NOVEMBER 3rd, 2011, At 1003 a.m. We're meeting in council chambers austin city hall, 301 west second street. We begin with changes and corrections to today's agenda. The first item number 9 is withdrawn. On item number 31, strike the word "interlocal" after 36 months. Item number 32, after the phrase "owner to the proposed project" correct the word "directing" and insert the " and then after the word "city manager 2," strike the word "draft" and insert the word " and after the word "agreement," insert the phrase "with the central texas regional mobility authority, etrma, close parens. Our time certain times, at 30 we'll have morning briefing and second and austin resource recovery master plan briefing. 00 noon we'll have our general citizens communication. we'll have a discussion and possible action on bond sales. And that will be a time certain at 2:00 p.m. we can take up our zoning matters, at our public hearings, 30 live music and proclamations. The musician for today is god-des & she. The consent agenda for today is items 1 through 45, with several exceptions which I'll read into the record in a moment. But first I want to read item number 35 which is our appointments to boards and commissions. That item will remain on consent but will be read into the record. First to the bond election advisory task force, don baylor is councilman spelman's nominee. Craig enoch, councilman spelman's nominee, and heather wade is councilmember tovo's nominee. To the building and standards commission, steven eloway is mayor pro tem cole's nominee. To the design commission, jane shea is mayor leffingwell's nominee. And to the downtown commission bart watley is councilmember morrison's nominee. So the following items are pulled off the consent agenda. Items number 11 and 12 are related to items 52, 53, 54 and 55, so those two items, 11 and 12, will be heard after the bond items at the 2:00 p.m. time certain. Item 36 is pulled off consent for a brief presentation and set for a time certain of 2:00 p.m. Also pulled off the consent agenda due to speakers are items 5, 7, 19, 32, and 44. Is that up to date, city clerk?

Mayor, we do need [inaudible] because we have to determine a date for the runoff.

Mayor Leffingwell: So item number 2 is also pulled off the consent agenda.

Mayor?

Mayor Leffingwell: Councilmember tovo.

Tovo: I have a quick question about 34. We might be able to leave it on consent she but I have a question for staff.

Mayor Leffingwell: We'll just pull it off and answer your question since we're not under any time constraints. We can address it right away. So that is the consent agenda. I'll entertain a motion for approval. Councilmember martinez moves approval, councilmember riley seconds. Any discussion? All in favor say aye. Aye. Opposed say no. Passes on a vote of 7-0. So now we can go to those items pulled off the consent agenda and begin with -- if there's no objection, council, we'll begin with item 34

for a question from councilmember tovo. Go ahead, councilmember.

Good morning, I'm chris --

Tovo: I'm sorry.

I'm an engineer with the water --

Tovo: I wonder if you could briefly summarize why is city is applying for a permit.

We've been advised by the fish and wildlife service to go ahead and include it in our incidental permit. E are no [audio difficulties]

Tovo: How long does the permit process take?

It's about 18 months from the time you negotiate with the fish and wildlife so that's why we're starting in january so we can have our new permit in place by june 2013. Our current permit is set to expire 2013. That way we have a few months of flexibility and by getting the permit renewed, obviously we can ensure continuing operation of barton springs pool.

Tovo: Is there concern it will be lifted?

All signs it should be listed as an endangered species, yes, ma'am.

Tovo: I wonder if you could tell me are there other species that are -- that the city believes are in imminent -- I don't want to say danger, but are going to be considered for a listing and that have a reasonable chance of being listed?

There our four species that are being included in this sort of prioritized action. Four salamander species in central texas. The other is the jollyville salamanders and term mentioned their is being considered by fish and wildlife in addition to the blind salamander testify .

Tovo: IS THAT THE SAME Situation that you think the phrase is imminent that it is on the imminent list?

It is absolutely a candidate. Its official status is war and for being classified as a dangerous species but included in our species but it has been grouped with austin blind. Only in zilker park. So the jollyville plateau is absolutely a threat end species. It most likely will be listed species.

Tovo: But the jollyville salamander is one of the four that we believe will be listed and we'll have an opportunity I guess on tuesday to talk more about the 10-a permit and why the city is not applying for a 10-a permit for that project right now. Thank you very much, harrington, I appreciate it.

Mayor Leffingwell: Councilmember. Trophy move approval of this item.

Mayor Leffingwell: Councilmember tovo moves approval seconded by councilman spelman. Discussion? All in favor say aye. Opposed say no. Passes on a vote of 7-0. Now we can go to item number 2 which is to set the runoff date to the may 2012 election calendar. Any discussion on that item? We have to pick a date. Councilman spelman.

Spelman: I think as a general rule we ought to have our runoffs within the usual period that we've established over many years and that would be on june 23rd and we understand june 23rd is the date

the county clerk says she can run a runoff election so i MOVE JUNE 23rd.

Mayor Leffingwell: Councilman spelman moves to set the runoff election at JUNE 23rd. I'll second. Is there any discussion? All in favor say aye. Opposed say no. Passes on a vote of 7-0. That brings us to item number 5. We have two speakers signed up. The first speaker is clay dafoe who has signed up against and you will have three minutes.

Good morning, ladies and gentlemen and good morning council. Number 5 authorizes execution to change order number 8 to the construction contract with texas sterling construction company, san antonio, texas; for the shoal creek alan dale storm drain improvement in the amount of \$223,607 for a total contract not to exceed \$6.2 million almost. Now, I know you guys have heard from me a lot on shoal creek being the leading environmentalist on shoal creek and speaking against the destruction of shoal creek that's occurring at this city council. Now, it says in the backup item this is to mitigate frequent problems in the allendale area. Basically it's a storm drain infrastructure. Yes, we want our roads to work here in austin. We can't have flooding on our streets. That's unacceptable. I live close to the allendale area, I know a lot of the community members there, and one thing they've been very upset about is just the noise of the project, the disruption of the road on 2222, and these are serious concerns. Councilwoman morrison in the council work session held, we don't need to ask, we need to tell them wrap up, wrap it up. They are adding a new curb and gutter, and why they didn't try to preserve the original, I don't know. But these are serious questions we have to ask. The project at the beginning was initially 5.5 million. Now it's going into 6.2 million almost. Bill oversight. You guys complain about money for elections but when it comes to projects like this you throw money around to these companies like it's running out of style. Why are there eight change orders to this agreement. Let's get the contracts right from the beginning and not make these mistakes. I did not see a fiscal note although there was a pdf this was just a page. Citizens are upset about than the delay in construction so let's tell them to wrap it up. I instruct you to vote no on this item. Thanks.

Mayor Leffingwell: Next speaker is mark gold. Mark gold. Signed up neutral. Mark is not in the chamber. All right.

Mr. mayor.

Mayor Leffingwell: You have three minutes. mayor, people of the council, my name is mark gold. I live at 5705 shoal creek road. I'm here representing myself. I do not represent the state of texas, but I think it's important to mention I'm on the executive staff of the [indiscernible] disabilities service and manage over 100 million plus projects. Project management 101. I don't have the time to talk to you about the viability or visibility of this project. Many people don't think it was viable or [indiscernible]. I'm not going to talk to you about the horrors just mentioned about the water being cut off and unbelievable incessant noise. Huge machinery. A four point like magnitude earthquake going on. The lack of project management, didn't realize there was going to be rock in city of austin. So for the construction. And just the disruption that's been going on since january. The constant beeping of the noise. What I'm asking and I want to just thank representative tovo, she's the only one that has helped me out here. I've been asking since MAY 4th, MY FIRST MEETING With city officials here, i wanted a gan chart. I want a listing of every step, every activity of what's going on and the amount of days. This is project 101. For my project I have a 200 page operational protocol and I'm in social services. It's a messy and goofy sort of process. This is -- this is an engineering project. You can google what the steps are here. I don't know why it's taken -- through the good offices of representative tovo, I was actually just this week given this two-page document, it was out of date, lots of acronyms, not because of her fault, this is what the city gave to her. You cannot imagine the disruption. 00 at night, on sunday at 9:00 at night. Ongoing beeping, the machinery. Wrap it up. Wrap it up. I know in state governor there's a waiver and exception process to every rule and policy. You have a right-of-way policy so it's going to take longer to do this construction. And we want it finished. God knows we want this finished now. So I'm tell you to waive and accept the right-of-way process. For four weeks we didn't even have accessibility to our houses because of the cars. You closed down bull creek before to make this as fast as possible. But primarily I want this chart.

What is the problem in providing me a detailed level, like we're going to tear the street up, five days. You are going to have to evacuate your home, x days. You are going to have the first layer of asphalt, x days. It has to cure, x date. This is project 101. If you have certified project managers they would be able to do this. [Buzzer sounding] so what I'm asking here now is for don't do a dart board --

Mayor Leffingwell: Your time has expired. Thank you. [Applause]

Mayor Leffingwell: Questions? Council? A motion? Councilmember morrison.

Morrison: I wonder if i could speak actually with staff. That's all the speakers we have; is that correct?

Mayor Leffingwell: That's correct.

Morrison: Good morning,, I i wonder if you could answer what is the tool for tracking our projects?

We require our contractors submit a project schedule and that schedule usually employs microsoft project which does produce gan style project schedules. We have provided updates and golden on his request. Certainly if he would like to have additional schedule information, we can provide that.

Morrison: Would it be possible to provide the full chart for this particular amendment and the rest of the project? Is that -- does that exist now?

We can provide the current project schedule for that.

Morrison: And does the current project schedule include all the way to the end?

It does up to and not including because this contract amendment hasn't been approved yet so we'll get an update and we can certainly provide him with the updates.

So he will be able to have the chart.

Absolutely.

Morrison: Okay. That's great. And I guess one of my questions and we know what's past is past so I'm just trying to focus a little on the future. I think you weren't here when we did the austin clean water program, but that was a huge project that I know it was somewhat different than this, but it neighborhoods all across central austin and it was a nationally recognized project. And one of the things that they established as routine there was the work with the neighborhoods, the project managers, the higher level commitment from management to make sure that lines of communication were open, to make sure that people were well informed, and to actually discuss with the individual neighborhood opportunities to minimize or mitigate the impacts. And I know my neighborhood was impacted and I know that the actual approach to the project in my neighborhood was changed based on those conversations. And so I wonder if I could ask you if you would be willing to sit down with the neighborhood and include the project manager, but I think that it requires, you know, a level of -- of sort of commitment from the director level to be able to roll up their sleeves and look at what are options to that. So I wonder if you might be willing to organize such a meeting.

We certainly can.

Morrison: Because I know one of the things I brought up on tuesday are there ways to speed up the schedule. And you did provide a response to me in writing. I wonder if you could just briefly summarize

what that response was.

We had responded that we do -- we can look at putting in an early completion bonus into the -- into the contract. And there may be reasons why the contractor may not be able to do that, but we haven't had the opportunity to discuss it with this contractor yet, but it is something per your request we're going to look at.

Morrison: Great. And I think the other thing you mentioned is if we compacted the schedule, it might have more impacts on the folks that live there potentially, and so that's the kind of thing that I think we need to discuss also at the meeting and I think that would be real helpful.

And we'll certainly make the additional outreach efforts. And I would just add that there has been substantial outreach and communication with the residents of the area throughout the project, but certainly everything we can do to, you know, there's a process and product to everything and we want to make sure not only we deliver the end result but in a ways that's [inaudible]

Morrison: I appreciate your commitment because the bottom line that has not been achieved so far. The goals of that. And then one other thing I wanted to ask is I'm really concerned and sort of -- about the actual cutoff to driveway access. How do we approach that as a city, because it sounds to me like there are public safety concerns, what if there was a fire, how does emergency service get to that or medical needs, and also I understand that, for instance, garbage couldn't be picked up so solid waste didn't have access which could eventually be a public health issue. And so how do we generally approach the potential of actually cutting off access or what I understand is a few weeks to people's driveways?

Well, the contract specifications require that residents have access to their homes. That doesn't necessarily mean they are going to get access to their driveways. While we plan the projects out, management of the right-of-way is a critical part and that includes public safety and delivery of services, and there may be -- and there most certainly are times when there are inconveniences to the residents of an area. As we talked about Tuesday, this project involves a rather large 8-foot by 6-foot box culvert 18 feet below the surface. That's a very intrusive process that -- that was required. As indicated, there are concerns with crossing 2222 which restricts work on certain parts of the project to weekends which also caused some schedule extension. So all the issues about public safety access, routine city services like solid waste services are addressed during the planning process as well as have a site layout from the contractor submitted when we start the project. At no time do we ever put the public at risk and sometimes when you have that big of an excavation there are fairly significant inconveniences that occur. We try and work with the neighborhood and with the neighborhood associations, individual residents to make sure they understand in advance what the project entails as well as what the benefits are going to be that come out of the other end. But those are all addressed during the planning project.

Morrison: I'm curious to understand some people aren't guaranteed access is what you are saying and it can be an inconvenience, but if an individual can't get to their driveway for several weeks, what if there were a need to access that house by fire truck or ambulance. Are there plans in place for alternate access for them?

There are.

Morrison: Like what would an example be, driving across the grass?

Could be.

Morrison: Okay. Thank you, and I appreciate your being willing to sit down and arrange that and if you could get back to us and let us know the outcomes of that meeting, if there are schedule changes other

whatever.

We'll do that.

Mayor Leffingwell: I just want to [inaudible] I think it's a major project, it's a major disruption to the neighborhood [inaudible] too long so I think we need to give it special attention, more coordination with the neighborhood and more means to see it's -- [inaudible].

Tovo: That were perhaps the contractor bears the responsibility for and should -- and were avoidable. So are there penalties in this next contract for unnecessary delays or is that a possibility of inserting some?

All of our projects include provisions for liquidated damages which are not strictly penalties from a legal perspective. They are intended to compensate the owner, in this case the city, for additional costs in the event of untimely completion. So every project has a provision for liquidated damages. In this particular case when additional work has been added and the completion date has been extended, the contractor has been given additional performance time and many of those, as you indicated, were additional utility work that was required. There were some changes in the schedule due to coordination of working through, putting in a large diameter culvert or large box culvert underneath 222. So those things are all considered into the contract performance period. In terms of work coordination on utilities work, I think all of the infrastructure departments in the city are taking some new and some what innovative approaches to work coordination and we'll be glad to present at a different time that will help in the future of what appears from the observer's eye of being lack of coordination, and we are doing a lot of things to make sure that we have the full suite of utilities requirements lined out as we go to the initial bid rather than have them in through change order.

Tovo: So I guess what I'm hearing in response to that question is that there are penalties.

Yes, there are.

Tovo: That the city could avail itself of penalties if the contractor falls behind for the schedule.

There are liquidated damages provisions within the contract.

Tovo: But at this point this haven't been any circumstances which, in your opinion, warranted a finding of any of those penalties to the contractor based on possible gaps?

Those penalties are not [inaudible] completion of the project because there's no violation of schedule.

Tovo: There haven't been violations of the schedule because you adjusted it; is that right?

That's correct.

Tovo: And so you adjusted it because you felt the delays were warranted and not contractor error like wrong parts ordered.

Primarily it's because additional scope has been added to the project so that requires additional performance period. There were some things that occurred through unfor season conditions that required the contractor to expend additional effort, and when you negotiate the cost, you also negotiate time. And typically when you have additional work or change condition, there's also additional time that's added.

Tovo: Okay. And so the schedule that you sent along to my office which gold does thought include this next piece, and as you said, you would be preparing that next -- the schedule for the extension that we're approving or that we're considering today. How soon do you suppose you'll have a schedule for that work?

I think as soon as we get the contract and executed, we'll get the schedule finalized and we can forward that.

Tovo: So a couple weeks?

[Inaudible]

Tovo: And I just want a second, councilmember morrison's suggestion, what i think I heard was a suggestion if there are alternatives to be considered and the scenario you've mentioned, incentives for early completion, but that would almost necessarily involve a longer stretch of the road being disrupted at once, that those alternatives being presented to the stakeholders for their consideration. Would they rather have a longer project that affects fewer of them at a time or do they want to speed it up and just, you know, impact more people at once. That's the kind of alternative that I hope you can bring out to the public for their feedback. I guess the last thing i wanted to add was the questions about emergency access. And you said there is a plan for when a driveway is blocked for how an emergency vehicle would get in and out. And I wasn't clear on what the means of accessing those houses were and perhaps it's different in every circumstance, but if you could also in your meetings with the neighborhoods and the neighbors present some examples so that the residents of that area have assurance that they could get a fire truck to their house or an ambulance if need be. Even if their driveway is blocked.

We can do that as well.

Tovo: Thank you very much.

You're welcome.

Mayor Leffingwell: A motion on item 5? Councilmember morrison moves to approve item number 5. Seconded by councilmember tovo. Discussion in all in favor say aye. Aye. Opposed say no. Passes on a vote of 7-0. Item number 7 has one speaker signed up. Mark williamson. Mark williamson. Mark williamson is not in the chamber that I can see. I'll entertain a motion an item number 7. Councilman spelman moves approval. Seconded by mayor pro tem cole. Discussion? All in favor say aye. Aye. Opposed say no. Passes on a vote of 7-0. Item number 19, one speaker, clay dafoe, signed up neutral.

Good morning. Thanks for letting me set that up. I understand it may seem like a mundane task to set the austin city council meeting for the year 2012. Well, I stand before you to make a serious suggestion about council meeting dates. The problem withholding city council meetings on a weekday, thursday, during the day brings obvious conflicting issues. Most citizens work during the weekdays. start time, many involved, caring and informed citizens cannot make the meetings to participate on agenda items. It creates a difficulty that discourages citizen participation. I propose that austin city council move its regular meeting to saturdays at to allow further citizen input, participation and monitoring of the council meetings. In addition, as a member of austin city council, I would push for a once a month special called all day meeting solely for the purpose of hearing from citizens, hearing their input on agenda items in citizens communications in addition to anything they want to address on saturday. It's a simple idea. Not requesting or needing a great deal more of the councilmembers' time. Just one extra day, one extra day for public citizen comments. And instructions. It's highly feasible and it's the right thing to do. I instruct to you make these appropriate changes. Thanks. [Applause]

Mayor Leffingwell: Those are all the speakers. I'll entertain a motion on item 19. Councilmember martinez moves approval. I will second. All in favor say aye. Aye. Opposed say no. Approved on a vote of 7-0. Item number 32. Karen blight signed up to speak in favor. Welcome. You have three minutes.

I'm sharon blight, memorial park cemetery. I've been an advocate for the cemetery for about 32 years. I have been working with txdot and the mobility authority on the vegetative barriers along the western edge of austin memorial park cemetery for about a year and a half now. They are all in favor of it and I notice in the resolution this morning that it wasn't included, and I would appreciate it very much if you would include that vegetative barrier in your resolution to bring light to the fact that the cemetery is there and will be affected by the mopac construction and subsequent load. So I appreciate it very much. Thank you.

Mayor Leffingwell: Thank you. Could I ask staff to comment on this?

Yes, robert spiller with the department of [inaudible] for the city of austin. The request for action before you deals specifically with sound walls as defined by txdot [inaudible]. Falls under the landscaping elements of the project and not part of the sound wall. That said, city staff as well staff continue to support a vegetative plan along this entire corridor that doesn't require the same [inaudible] from the adjacent property owners. And so although [inaudible] so we would recommended we go ahead and address the [inaudible] to know that your city staff will -- [audio difficulties] [one moment please] councilmember tovo.

Tovo: I'm not clear on why we wouldn't want to add a line in here. If that's a goal and that's something that's been discussed and there's no logical reason for txdot to be opposed. There's no harm as far as i can tell for inserting a line that says we would like to see a vegetative buffer or we anticipate there will be or we require if there is a sound wall constructed, we require there to be a vegetative structure along austin memorial cemetery.

Councilmember, I think you would need to ask law a little bit that because what we're speaking asking is for the city to vote for its representation of property that it owns or acknowledge in those parts of the corridor where the citizens have voted to acknowledge that. I think it would be -- if you would like, we would be happy to bring back another resolution to you to make a statement that you would like to see vegetation and landscape as part of the overall program, but I think law would need to tell you if it were germane to our issue.

Tovo: If it's germane to our recommendation one be constructed, I would think it would be germane to the issue today.

Mayor Leffingwell: As i said earlier, we could add that as direction for -- [inaudible] part of this project and the cost and procedure for discussing it to come back to us with acknowledgement -- say it is separate from the wall project. Not a part of the sound wall.

Tovo: Well, I guess I'll be interested in what legal says before we vote on this, but I do have one other -- i guess a comment. You know, one of the things that gives me just a little pause in our consideration of this, the sound wall number 3, I'm looking at our figures, there were 45 ballots sent, 25 ballots were returned with positive vote, three against, but 17 unresponsive. In our meeting I did raise some questions about that, but I wonder if there's been any additional contact with those 17 nonresponsive stakeholders because that is a -- you know, we have 25 against, but we have 17 people who did not respond at all and so it's -- you know, we're affirming a vote where we have a good number of people who are interested parties who didn't participate, and so --

let me introduce mario esinosa. We require for a part per [inaudible] is that you have to have a 51

percent response. And he will let you know.

Tovo: Thank you.

Thank you, rob. Good morning, mayor and council, mario espinosa with the regional mobility council. In response to your question, there were two attempts made to contact all property owners that were impacted receivers of those abutting a proposed sound wall. In this case they received initial ballots when it was noted we may not have received 51% required, there was a second certified letter sent to all property owners based on the information provided by the travis county appraisal district. There were two attempts to contact all property owners. In this case you are right, 25 four, three against, 17 unresponsive. Even if all 17 had voted, then after the second attempt it would have been a 25-20 vote for the construction of sound wall number 3.

Tovo: Right. That's a pretty -- that's not a consensus by any means, 25 to 20, that would be something we would want to give various consideration to. So it sounds like both of the attempts were done through certified mail. Was there any outreach, door to door outreach or phone calls?

Most of it was certified mail. There was some contact we made with many of the property owners, however, it was the registered property owner that was eligible to vote. In some cases some of those properties along the entire corridor have you rental property so it wouldn't have been the tenants, actually it would have been the property owners.

Tovo: Right, well, thank you, and that answers another question. We did receive some citizen comments in opposition to the sound walls and at least one of those said they were concerned that the tenants were the ones who were saying, sure, fine and that they hadn't surveyed the actual property owners who have a permanent stake in that -- in that property. So I appreciate you clarifying that in cases where there were rental properties, it was the property owner who was eligible to vote. Okay. Thank you. That doesn't exactly resolve the nonresponsive, but it sounds like you've done what you are required to do in terms of sending out two letters.

Councilmember, I think law has a recommendation for you.

Good morning, angela rodriguez from the city law department. And it's more appropriate, in my opinion, for the vegetative law issue to be in a separate resolution. This particular resolution is specific to the sound walls themselves and it's indicating our preference, ratifying the preference of the neighborhood rather than having any position on the vegetative wall. I understand that your concern is that perhaps we -- we can insert a line saying and also. And I understand that, but i think it would be more appropriate to have it separate. And also if you think about it, it would have more of an impact, I believe, if we were to have a completely separate resolution with the council directing the transportation -- staff to explore that option.

Tovo: And when you say appropriated because of what we've got on the table in front of us today and could that be resolved by just postponing that until wrecks week and bringing forward something different? It's more appropriate two separate items. The vegetative screen as one item and then the sound walls themselves as one separate topic, if you will. Because keeping them separate is the more appropriate course.

Tovo: Do you think, though, that will -- I mean, I'm concerned if part of our -- part of our answer to txdot is that we -- we affirm the neighborhood's position under these circumstances, i want to be sure we use the best vehicle for transmitting that message. And if it's in two separate ones, will it be viewed as -- I guess maybe that's a question for my colleagues. But thank you for that suggestion.

Mayor Leffingwell: All in favor of the motion say aye. Aye. Opposed say no. Passes on a vote of 6-0 with

councilmember martinez off the dais.

Thank you. Item number 44. Dafoe signed up for for plea minutes. Three minutes.

Good morning again, ladies and gentlemen, council. Thanks for allowing me to address you on this one. I'm in support of 44. We need a public hearing, december 8th sounds like a good day. I know that some of the discussed changes including limited the amounts of properties or buildings that are designated as historic landmarks. I believe the three per month. I am a historian. I have a bachelor's degree in history from the university of texas, and, you know, I think these self-imposed limits may cause trouble when we see some more of this redevelopment gentrification come in with the downtown austin plan, so i think we need to leave that open for the citizens to decide. We need to do it in an efficient way but we don't need to limit ourselves because there are a lot of historic s that are in grave danger of being destroyed. Please vote yes, let's have a public hearing. Thank you.

Mayor Leffingwell: Those are all the speakers we have on that item. Councilmember martinez moves approval. Seconded by councilman spelman. Discussion? All in favor say aye. Aye. Opposed say no. Pass on a vote of 7-0. So those are all of the items on the consent agenda that we can address this morning. So we'll go the our first morning briefing, which is a quarterly report from austin energy.

Good morning. I'm larry weise, general manager of austin energy and we're here today to do a quarterly briefing. Our agenda today will include, number one we'll have a financial performance by elaine hart and then I will discuss our rate review status, and last our generation plant update. So I'll turn it over to elaine right now.

Good morning. As you know, weather has been a significant factor in affecting our 2011 financial performance, and much of the presentation today will focus on that. We broke a 1925 record this year of 69 days over 100°. By mid-june we had 10 days over 100. By august 4th we had 50 days over 100. And by september 30th we had 90 days of 100° or more. Certainly that had a large impact on our revenue and operations. And we'll start talking about that, show you some of the financial results. This slide shows you a comparison of our retail revenue in excess of budget. Our previous update in early august covered through the month of july, so you are seeing results here, additional results that are the last two months of our fiscal year. And this I remind you is our nonfuel service revenue. Actual exceeded -- actual revenue exceeded budget in every month except for the month of november. And we do budget on a normalized weather basis. That is typical for all utilities including water utilities. The additional revenues are primarily due to the weather. We had a cold snap in february and then extremely hot weather in the summer. 9 million ahead of budget for the fiscal year that just ended in september. This slide will focus just on the summer months. And I'd like to explain the colors in the chart so that the audience can understand the chart. The yellow is the additional total retail revenue that we received over our estimate. Not over budget but over what we had estimated. The orange is the additional power supply fuel costs over our estimate. And the green is the net revenue that improved our bottom line for the summer months. And as I said, our last update with you covered through the month of july. So if you look at the month of august and september, you can see that august was significantly higher than the two prior months. And you can also see the orange for august, which is the third column from the left, is significantly higher. August revenue was 3 million, but the additional supply -- power supply cost was 37 million. The prior slide where I had the weather chart, the very first week of august we had the lowest high temperature that week with 104. So we had many days of over 104 weather up to 107. Unfortunately, that same week we had an unplanned outage at one of our base load generation plants the entire week and had to buy additional power supply to meet our drove up our cost as well as our revenue. So that explains that significant jump. It certainly could not have been anticipated by staff. And if you add the four -- four summer months up all together, all told, that's an additional total revenue of 8 million for the four months and an additional net revenue or improvement in our bottom line of 27.7 million. So the final slide I'd like to show you is an updated fund summary which shows you our beginning of year budget in the first column, our estimate, which is what we've included in the proposed budget that was published in july, and then our revised estimate for year end. And you

can see the box down at the bottom, the second line from the bottom is the deficiency that we projected for the year. We began last year's budget with a \$52 million deficit. By July when we proposed the budget, we thought we had improved our performance to a deficit of 37 million. Based on actual through May. So because of the additional revenues and the net impact of the summer, of all the summer months, we're projecting almost break even but still a 5 million, which is significant improvement over where we thought we would be at this point last year. And I will remind you we just closed our books. It will take us another several weeks to get our GAAP financial statement so this is just preliminary fund summary which is budget based. But all told, it's a really good message for the year compared to where we thought we would be. It puts us in a better position moving into the 12 budget. The 12 budget did not include our rate review and is budgeted as a deficiency of 75 million. So significant deficiency still, but it does improve our ending balance going into the new year. The other thing I'd like to talk about is a few of our key performance measures, and this focuses on our financial policy. These are policies originally adopted by the city council in 1989. I was instrumental in writing them at that time so I'm very familiar with many of them. Many of them have not changed, although there have been a few changes since that time. They were written to ensure that our financial resources are managed in a prudent manner and that we meet key strategic financial goals. The council reviews them annually during the budget process and changes to those policies are approved during the budget process. Many of them focus on key bondholder protection covenants, those kinds of things, debt measures, liquidity and reserves. And I'm going to highlight just a couple of our policies and do a comparison of the policy to see industry best practices. The first policy I'd like to focus on is the debt policy. It's called our debt to equity policy. And we like to have a mix of cash funded capital programs and debt funded. And our policy states that we should fund with cash from operations or equity between 35 and 60% of our capital program. Now, I've got a quote from a Moody's investor service April 2011 report on electric utility medians, and you can see the trend from 2005 to 2009 for the median is down to 52%. And you can also see that Austin Energy debt to equity ratio which compares to median is 51.3 to 48.1 for 2009. So we're very much in line with industry standard, just slightly below that. And we expect to come in about 49% for the current fiscal year that just ended. The two other policies that I would like to point out relate to liquidity. And the first one was written in 1989 and it really has not changed. It says that we should maintain a operating cash balance of 45 days. Nonfuel. And several years ago we went to an annual fuel adjustment process. Prior to that we had a monthly charge. So as we've moved to this annual process, any fluctuations in the fuel throughout the year are not passed through to our customers. So that makes the 45 days even more important. And if you look back to the slides for the summer charts, you can understand that we had to come up with the extra cash from our operations to cover that additional power supply. It was not passed through to our customers during the summer. If you look at the second one, it's a strategic reserve fund. And when it was first created in '96, it was called the debt management fund. And then later we just changed the name and then firmed up some of the policy. Some of the policy direction was to have a portion of that, three different portions in emergency reserve, contingency reserve, and a competitive reserve which has now been renamed the rate stabilization reserve. Our emergency reserve is a minimum of 60 days of operating cash or northern power supply operating requirements actually. And the emergency reserve is used to fund costs related to natural disaster, New Jersey repairs and replacements and unexpected costs of federal or state legislation. And it's only used after the contingency reserve and the other stabilization has been exhausted. The contingency reserve is a little more flexible. It could be used for unexpected, unplanned extended outages, insurance deductibles. We are self-funded for the deductible portion on our policies. They are generally a million dollar deductible. Any unexpected costs for federal or state legislation. And, again, liquidity support because we do have that annual change in our fuel factor. If we use the contingency reserve, the policy states that the amounts will be replenished within two years from excess operations. Currently we have the emergency, the contingency reserves are funded. The rate stabilization is not currently funded. Those amounts were depleted in prior years primarily to improve the competitive position of the utility using that cash for capital programs like our automated meter interface infrastructure. Our automated meters. And in our rate review we are proposing a process to begin funding the rate stabilization, but not to fund it fully. Here's an industry bench on liquidity or days cash on hand and I've got two rating agency measures for it and they do support our policy, although our policy guidance is from the city council. Fitch ratings June 2011, public power peer study for AA rated electric utilities has a 118-day measure. Austin Energy at -- was at 55 days, according to the Fitch calculation. That was down from 91 days on --

from 2008. And their calculation does exclude the strategic reserve. Our strategic goal is also an a a rate. Moody's investor service had an april 2008 rating method rolling report and their days cash on hand was about 100 to 115 days. For an a a rated public power they preferred greater than 125 days at their measure. Again, these are based on strategic plans, financial performance, and operational risk of various utilities, and you will see the days cash on hand vary from one utility to the next because of these factors. A utility that's a generator will have slightly higher risk and have need for slightly higher cash reserve than merely a distribution company. At this point that concludes my part of the presentation. wise unless someone has questions or you can defer questions to the end.

Mayor Leffingwell: Councilman spelman.

Spelman: Apparently we can ask questions now let me do this while it's fresh if my mind. I'm looking at your slide for fitch and moody's cash on hand metrics, and I thought I heard you say these do not include the strategic reserves. Is that correct?

The fitch rates measure does not include the strategic reserve. That would be equivalent to our 45-day policy.

Spelman: Okay. So keeping apples to apples then, the fitch ratings, we would compare that to our standard 45-day policy. And you are suggesting with the cash on hand median for aa rating public power is about between two and three times our current policy and current cash on hand. Is that accurate?

That's correct. They are suggesting 118 days versus 45.

Spelman: When they are looking at the median for aa rated public power, do other public power companies have strategic reserves like we do?

Many of them do. Others just have their operating cash balances.

Spelman: Okay. So in some of these cases then that median is going to be based on at least a few cases that don't maintain a separate strategic reserve as we do and just ball all that together in one account. Is there a way of getting a apples to apples comparison on that fitch rating number?

That's fairly difficult to do. That's why we adjusted our measure to be the same calculation that they use so that we could use their bench study. The only way to do that is pull all the financial statements for all the utilities and hand calculate it. That becomes a little difficult.

Spelman: We shouldn't be be doing that. That's fitch's job. I just wanted to see whether or not that 118 versus 55 looks like a fairly substantial difference. It might have a affect on fitch, but if fitch is taking into account our strategic reserve and giving us credit for that, it sounds like they have a little work to do to determine whether or not we're out of compliance with the average on public power or whether we're actually doing fairly well.

When -- when they do -- when we do a rating visit with them, we point out both our operating cash and our reserves. Their specific calculation here that they do across the power industry is just their unrestricted cash balances on their balance sheets, and so they focus on one measure and they do take into consideration the other reserves that the public power has, but they are looking at this one particular measure as their metric.

Spelman: So this is a quantitative measure they have in front of them, but they take qualitative adjustment into account when they decide how well we're doing.

That's correct.

Spelman: To get a comparable number to the moody's cash on hand, presume audible it would include our strategic reserves. Is that accurate?

It's unrestricted cash as well. It's very similar to the fitch ratings calculations.

Spelman: And moody is going to do the same thing and take into the account we've got strategic reserves in separate accounts and say, yeah, they are doing okay. Is that roughly where we are?

Yes, and we do highlight both when we do the visits with them.

Spelman: Okay. And it's your recommendation we maintain a 45-day cash on hand nonstrategic reserve unrestricted going forward and that's not going to be a problem as far as fitch and moody's is concerned?

I don't believe it will be because they've not given any indication in any of our visits it will be. But we'll certainly ask that question. If it is, we'll come back to council and recommend a change.

Spelman: But for now your recommendation is maintain our financial policies intact. Thank you.

Mayor Leffingwell: Councilmember riley.

Riley: Just one question about the numbers [inaudible]. What we saw for this summer was fairly significant impact of weather conditions. In fact, we wound up being something like \$28 million off our estimate just based on our net revenues for the summer just based on the weather conditions. When we look at that, the very last bullet point a slide 5, projected deficiency for next year, what kind of assumptions are we making for weather conditions next year?

The same assumptions that we made for 11. We budget based on normalized weather. We do not anticipate our budget or any extra revenue from weather conditions. So we use a ten-year weather analysis and run it through our load forecast and revenue forecast model.

Riley: [Inaudible].

Yeah.

Riley: And in fact if we do see a continuation of the kind of conditions we saw this summer, projection for 2012 would likely be something on the order of \$3 million less?

It could be if we saw the same kind of weather, yes, sir.

Riley: Okay. Thanks.

It's just difficult to anticipate.

Riley: Okay. Thanks.

Mayor Leffingwell: Mayor pro tem cole. Coal cole thank you, mayor. I know we're about to hear more on the rate case, but i think it's confusing sometimes for you to give a presentation focusing on how strong our utility is because of our financial policies, our debt rating, our debt to equity rating, our strategic

reserve and still considering why we are considering a rate case.

We have not in a rate increase so that we can pass through fuel costs and that also is a rating strength for us to pass on those costs. The last four years' budgets we've run deficits. We had a net loss on a GAAP basis in our income statement for the last couple of years. Our operating margin, which is the percentage of your operating income over your operating revenues, has declined every year for the last ten years. And our debt service coverage ratio has been declining over the last five years. So while I focused on a couple of measures here that are very important and are very stable measures, I didn't focus on those that have been negative, and those are the primary reasons that we need a rate review. In addition to that, over the last couple of years we had the pecan street project, and we're really looking to redesign our rates to be a little more modern, and that was also one of the driving factors of our rate review.

Cole: Let me follow up on a couple of those points because I think it's difficult to look at these issues in a vacuum. Now, when you say in the past 17 years we have not had a base rate increase, what amount of time do other peer cities have rate increases. Have you all looked at that?

We have. We've hired S&P at our consultant to assist us in the rate review and they indicate that a minimum of five years, every three to five years most electric utilities change their rates. We did adjust our financial policies with council approval a couple years ago and now the policies require a cost of service study every five years. And that will be our protection to see if our costs have gotten out of line with our rates.

Cole: Now, did you look at that as between municipally owned utilities and independent utilities?

Yes. Our consultant does quite a bit of municipal rate work.

And when you look at and say that for the past four years we've resulted in a budget deficit, can you give reason for, like, the top reason for that deficit? I mean, was it totally rates? Was it a change in the economy? Was it a change in our conservation and climate protection plan?

It's primarily -- despite the fact we made budget reductions and in many years significant ones, they were primarily on the capital side more so than the operating side. And our operating revenues are not growing as fast and have not been growing as fast as our operating expenses so they are out of line and we need to true up a little bit more. Certainly the economy had an impact, the recession that we've gone through. We've not seen a rebound in our revenue stream. 3% increase in kilowatt hour sales for the current year. Over the past five years we've seen numbers as high as 3% to 5%. But I attribute more of that to the economy rather than the effects right now of our energy efficiency program, although that has had somewhat of an impact.

Cole: And so when you use terms like operating margin and operating margin expenses, I mean it's clear to ratepayers what those are.

Our operating revenues or our base revenue, our fuel revenue, it does not include interest income. It does include our transmission revenue and our other customer fees and notes. Our operating expenses --

Cole: So those are typical revenue streams for any you know whether it's municipally owned or independently owned.

That's correct. And on the expense side it's the operating expense including your fuel, labor, contracts, commodities, those kinds of things. The debt payments or the interest payments, because I'm talking about an income statement, the interest payments are below the line. They are not included in operating

expenses for our operating margin purposes. [One moment, please, for change in captioners]

austin energy continues to face challenges in this industry. I want to especially remark about the reliability standards that we have to up hold to today. And when we get into the rate review process, we will tear apart a little bit and try to provide a lot of transparency to you about how our revenue requirements are built around the utility. So when we finally bring a rate recommendation to you, I expect that we'll have a pretty robust set of discussions around those issues. So my purpose today is to talk about the status of where we are in this rate process. Going back to -- prior to my coming aboard at austin energy in august of last year, austin energy retained our utility consultants, wr back out of colorado principally is where the folks are working. I want to emphasize that you talked about some utilities and different practices. Municipally owned utilities, publicly owned utilities, public power generally do their finances very similar. Municipal utilities generally have stronger credit because they're associated with an entire utility. So there's a little bit of different. The utility I used to work for did not have that connection and therefore there's some different met metrics that get caught a into that in finances. We can talk about that later when we talk about the requirements in the rate work. January of 2011 we had our preliminary revenue requirements cost of service study done. And we used 2009 as our base year because that's a closed out year. That's a year that we had certain closeout and audited. We began a public involvement committee process. I think you're familiar with that. We selected different representatives from classes of customers. Also the electric utility commission, of which you appoint a member, they have their own ratepayer advocate who represents the rate payers and it's not our person, it's a person that sits there and sort of judges the performance of recommendations that we have as we go forward. We've had several meetings. They've been very engaging. They've been very long. From september 1 to october 17th of 2011. And we had a couple of special meetings that you see there on the schedule. On october the 20th the utility commission ended their discussions with a vote on their recommendation. So we have a commitment by the utility commission as to what they recommend our rate structure be. They adopted a lot of what the independent rate advisor recommended. They pushed back on a lot of items that we recommended. And I think we ended up with a very challenging and vibrant discussion. I frankly think a lot of folks would like to continue that discussion, but I think we're at a place where we as staff need to take that and we need to put that together and deliver a rate recommendation. We will be doing that in november. Right now, in fact, yesterday and this friday we are in our conference room with all of the staff finally coming up with the final work on this. And our schedule is right now is that we would come to the city council for a work session on rates either december 13th or 14th. On december the 15th, which is a thursday, we would recommend that we set a council action to set a public hearing on rates for january 12th, 2012. The time period for accepting requests for information september january 13th. January 12th we would set a hearing for utility rates. My experience with public hearings is that there could be more than one and that depends on the council. It's your direction or policy. And then on january 26th, i will be back again for a quarterly briefing to conduct a public hearing on electric rates and to approve new electric rates and related budget amendments to amend the fy '12 budget. So when -- we've got our fy '12 budget approved, we did not include the additional revenue that would be coming from any rate changes. We obviously would like to get these rates in to place before our summer of next year. So our goal is to try to have our first billing cycle in april with these new rates. It's a challenging schedule, I will say. So some public feedback on our rates. I expect that you've had some directly already. And that -- and more will come. But the euc, we held five public meetings, about six attendees at each public meeting. We had 20 public speakers and citizen communication in each meeting and we had 33 speakers on panels representing various customer groups that you can see there. We had -- we've had independent experts that are hired by these -- in the classes of customers come to us in these meetings, come to us individually as a group to talk to us about various positions that they would like to take. Requests for information. Through our website, any customer can come in there, any citizen can go in there and submit a comment, request for documents. AND AS OF OCTOBER 3rd -- I Apologize for this not being up to date, but this quarterly report was to be at the council meeting previously. It's obviously grown since then, but we've had 3335 visits to our rate website. We've had 210 requests for information. We've had 79, those requests from electric utility commissioners, and 131 from the public. The independent rate advisor that I mentioned is really working for the electric utility commission and the rate payers independently, concurred with -- I've got this chart here. I think you can read it. There is certain items that they went along with, the advisor

did, and certain that they didn't. The most controversial one I will point out is the one in the upper right, the recommended change referring VIP to AID. I'm not going to get into the acronyms of what those mean and how this goes about it, but you will when we bring the rates to you because this is a real interesting cost of service model. Basically these methodologies determine how we allocate costs associated with the customer and their load. And certain customers benefit that are what we call low load factor customers. In other words, they have a peak, but they don't use a lot of energy. And then certain of these methodologies appeal to residential customers that don't have -- they have kind of a nasty peak, residential customers do, and industrial customers that have large flat base loads, they would rather see one of the other methodologies. So we ended up with a methodology that I think we can all live with and we ended up with fixed charges, a five-tier rate design. I think you can read some of the other as speblghts where we ended up there from the rate advisor. Some of the policy goals and metrics that helped guide policy direction in this is -- on this chart, first of all, we need to achieve our revenue requirements. Now, that does -- there is some room for judgment about what those revenue requirements are. You just heard a discussion about the different stability -- rate stability funds and different ways that we hold cash. Those are council policy. Those are policy directions that obviously can move a little bit. Up or down. Align cost of service with our customer classes. This is fundamentally really important. We have several customer classes, but let's just talk about two. We have residential and we have customer and industrial. If -- typically what happens in a lot of electric rate design, particularly with public power, is that one class is subsidizing another. And that causes a lot of cost of service imbalance. So what we're suggesting here, and we've -- the council approved it is no customer class pays more than 105%. The rates that we bring forward to you on the residential side will be at 95% of cost of service. So in other words, we're going to bring a rate design for residential less than cost of service. Who is picking that up? The rest of the customers will be going up as tie as 105%. We want affordability with our customers. That's very important. So we establish this metric. We have affordability goal that we worked out this winter here and our rate benchmarking, those are all part of the metrics that we want to achieve in this rate design. Our customer assistance program with double. We will double the amount of assistance to low income customers and we are designing a rate design that improves motivation for energy efficiency beyond what our rate design is today. So it's very important that we do that. We will have our green choice program. We'll still be the number one in the country, that's a goal, and we'll have an excellent solar program that provides each better program than we have today. So those are all goals that we have coming out of this process. Anybody have questions? Let me move on to the generation plan and if that's okay. Generation plan, that was approved as a part of our city of Austin's climate protection program, and initially adopted under the 2010 plan and approved with an affordability goal this last winter. We'll approve it annually, report a performance against goals. Part of that was these quarry briefings to let you know where we are. And he'll we'll assess the generation plan every two years and update to the plan and report to the public in the fall of 2012. As you know, we've recently acquired 491-megawatts of wind resource at a very attractive price. I will tell you that right now on this chart you can see the three different projects. This is a Spanish utility that operates renewable projects in the US. I think as you know in the news, there's a little turmoil in the financial markets in Europe. I've been on Fox San Antonio with them extensively this -- I've been on the phone with them extensively this last week to ink the deal. It is not done yet, but should be about a week away. The other ones have all been signed. They are under way and we will have those online by December of 2012. And so we're very excited about these projects. And they'll really bring our renewable costs down to what we projected them to be before we got going in the generation plan. Solar acquisitions, our consumer solar installations, we have a thousand plus residential systems. A residential rebate and commercial is a based incentive program. We tend to I am -- we intend to improve that extensively. On public facilities, we have about a megawatt. And our utility scale project out of Webberville, I was out there last week, our substation is done, the line is built. We're about ready to energize. It's substantially complete, that project, and it's pretty fascinating, if anybody would like to take a tour of that or however we want to do that, we can certainly do that. Our capacity goal in the generation plan for solar is 200 megawatts by 2020 and we're currently at 36. We're going to evaluate the Webberville project, see how it goes, see how it operates, look at our costs. We're concerned about where the tax credits go on solar. Solar prices have come down. They haven't come down enough frankly to compete with wind. 5% for wind projects and solar is still up around 10 cents. However, rooftop solar and other applications of solar are strong emphasis right now. What we're talking about here are utility scale projects where it's actually

a generating project. And we'll begin looking at more and figuring out what our next timing on that is after we evaluate webberville for probably about a year. >

Here is the generation plan. Here is where we stand to date. I didn't anticipate we would be at 30% renewable by the end of this next year, but here we are. The other five percent is definitely doable. It's a question of timing and it's a question of how we go with the rates work that we're about to do. So with that, I will conclude our presentation today and take any questions you might have.

Mayor Leffingwell: Quick comment on your last comment about the generation plan, that's great about it being 30% by the end of next year. Will we also have an analysis on impact of rates, taking that step? I suspect I know what the answer is, but I just want to confirm.

Yes, we will. As we go into the rate work, we're going to go pretty deep into all of our costs and show you how those are impacted in our generation plan. I will tell you on our wind projects that we got, we're actually probably going to reduce our overall generation costs with these wind acquisitions that we did.

Mayor Leffingwell: That's what I was going to suggest. It actually might have a negative cost impact, negative in a positive sense.

Right. That's correct.

Mayor Leffingwell: Any other questions? Councilmember riley.

Riley: Larry, appreciate the briefing and congratulations on all the success you're achieving, especially with respect to the generation plan. I did want to ask one question about the impact of the progress that we're making on that. You mentioned earlier, or perhaps the first presentation, that we expect to be doing cost of service studies every five years. It seems to me that shift to go -- getting to 30% next year is going to have an impact on the cost of service, but I guess we wouldn't expect to have the cost of service study for another, what, three years or so?

Right.

Riley: That leads me to wonder what is going to happen -- like for instance, let's look at this past summer when we saw very significant increases in revenue due to the climate conditions, the severe weather we had here. The impact would have been a lot more significant if our costs had stayed lower, but in fact, of course, given our current generation composition, your costs go up almost as much as your revenues. Now, if we get to 30% by the end of next year, we would expect there to be a little less tracking between costs and revenues, isn't that right?

Well, I think we would have more certainty on our costs with respect to the wind. We know what it's going to cost. What we don't know is the actual production. So, for example, if it's not windy, we're going to have that. So what we do is we put all of those into what we call our production cost model. We actually model with the forecast all of our generation and we run that through a simulation and that's how we end up with our forecast when we do that. And we can operate those models based on abnormal weather or a really cool year where we won't have those sales. I don't know if I'm basically answering your question, but the impacts from different generation schemes we do put in to our models and test those to make sure that we're within our policies and within our risk tolerance that we have.

Riley: Can you perceive any need to accelerate the cost of service study?

No, I don't. I think that the process we're going through now is i don't want to use the word painful, but it is pretty extensive. And when we get done with this we're going to have -- austin energy will have a completely different kind of rate design. And my belief is that we need to operate with that rate design

for awhile before we come back and do a cost of service study, even though it is a policy every five years, I don't think that cost of service analysis will be as extensive as it is this time. Let me give you an example of that. Just a piece of wire has gone up significantly since 1994. I mean, just the operation and maintenance costs of this utility have significantly changed. And the only revenue increase we've had is for fuel. Transformers, wire, tires for trucks, all that stuff has just all gone up. And we support that through our rates.

Riley: In simpler terms, if we get to 30% of renewables, go through another summer, hopefully we won't, but suppose we go through another summer like we saw, you see -- how would the performance under those conditions compare with what we saw this past summer. You expect more volatility?

I would expect similar results. The netting, the net revenue comes out differently. If we have another warm summer like this summer, we're going to have stress on our system, stress on the generation, and how we end up managing our sources through the summer is going to be a question based on that. We had extensive outage on our base load facilities. If we don't have that our net revenue could actually be better if we had the same performance.

Riley: Okay. I also want to ask just one question about our progress on the -- our goals on on our progress on solar. You spoke to progress towards these 200-megawatt goals. And I appreciate the memo we got recently that set out our strategy to reach that goal. One thing I wanted to focus in on in particular is the montoya tract where we have enough land for 200-megawatts of solar, but the existing line is only capable of carrying 30-megawatts. We're hopeful that after the-- we do expect to see (indiscernible) in the infrastructure that could potentially enable us to increase the capacity of that line. Can you expand on what it would take on the utility's part to expand the capacity of a line to get beyond 30-megawatts? Up to the full potential of the site?

On the webberville site you're talking about?

Toyad tract.

I'm not following which one you're on.

Riley: It's actually the the report from michael osbourne on the strategy to reach 30-megawatts.

Okay. I don't have that report with me, but we have -- we have a significant piece of land in west texas and that's the one you're talking about. And my understanding is by 2018 some of those trans lines will be complete and we'll be able to evaluate putting the scale solar in west texas.

Riley: It's my understanding they will be complete by 2014.

Okay. I think in our planning we're looking at that being a little bit longer is what we're anticipating.

Riley: Okay.

If it's 14, that's great, but I'm -- I've heard conflicting numbers on that.

Riley: Okay. Let me ask lastly about a couple of items identified by the independent residential rate advisor on slide 15. You set out in the items in which the rate advisor concurred with the utility and a number of items in which there were recommended changes. I was a little unclear on the utility's position with respect to those recommendations. For instance, I understand that the independent advisor is suggesting that there be a one dollar a month community assistance program charge on the residential bills. That's different from a checkoff where you can choose to give a dollar. It's going to

actually charge.

Yeah, it's an actual charge. We actually -- I think we're going to be adopting that as a recommendation except for our commercial industrial customers. 6 of a cent kilo watt hour on their part because it doesn't make sense to do that on large customers. We'll have two different methodologies, revenue stream methodologies, but the dollar a month is the one we're going to follow as a recommendation.

Riley: And the last item relates to the green choice, the rate advisor recommended continuing the current green choice less a complex tariff. Can you expand on that?

Well, we have a very creative staff and we've come up with a better way on green choice I think to capture the true benefits and the costs. The rate advisor thinks it's too complicated. I do not. I don't think our staff does. We think it's workable. It was just a difference of agreement. And it's -- austin energy, one of our big jobs is to continue to be an innovative utility like we are. And I think the green choice program, I'm impressed with some of the creativity that we've come up with to make the program even better. The rate advisor thinks it's too complicated, but the company won't see that complication, they will see the benefits. So it's just a difference of opinion.

Riley: One question that's come up with respect to the green choice charge has related to the matter of additionalty, in particular whether one's participation in green choice will actually have an impact on the utility's purchase of renewable energy. And I understand that that has been a goal. I think because we're getting into a changing environment, we're going to have a program where every customer is going to have 30% renewable by the end of next year. So if you're going to take green choice, 70% of that power is going to be coming also from green, so you will be 100%. And that 70% that we're going to buy won't be a batch system like it is today. It will be an agriculture gate purchase that we make and it will be from our rootable portfolio, it will be reasonable cost. So we'll put some of our more expensive solar and -- we're in the process of designing that right now as to which renewables are in this budget and which are in that budget. But if you go green choice you will be getting your standard 30% as you would at the end of this next year. 35% By 2020. And then 65% of that energy that you select -- because you will be 100% green if you do the green choice. And we did have a discussion about whether you should be able to select -- be it an x percent or not, but the administration of that and the intent of that is not what we set out to do in green choice.

Riley: Do you expect that the utility's purchase of renewables will be affected by the level of customer participation in green choice?

I don't anticipate it to be the driving factor for acquisitions of renewable as much as the 35% goal is. That is a huge amount of energy to do that.

Riley: So when an individual chooses to participate in green choice, you're saying that there's not -- that wouldn't necessarily have an impact on the utility's -- on the composition of our generation in.

Well, it will improve, but it is not part of the target. It is not part of the 35% target now, if we had half our customer base choose green choice, then we'll have a problem. But if it continues like it is now, I anticipate that we'll be able to handle that without any revenue implications. It will just be simply the customer will be paying a little bit more, but it will not have a negative impact on utility.

The goal that has come up, the concern that I've heard is that it should be something more than just an I choose to pay more option. It should be an option that actually accelerates the utility's progress on moving towards renewables. So if everyone is at 50 percent or more of austin energy customers said we want additional renewables and we're willing to pay more for it, in the hopes then that that would actually have an impact on the utility's purchase of renewables as opposed to just the utility deciding on

the amount of renewable it was going to purchase and then just adding up the costs.

I understand your point. I'll bring that up in our discussions. We're still working on the design program.

Riley: Okay. Thanks.

Mayor Leffingwell: More questions? Councilmember Tovo.

Tovo: Reese, I have a few questions. But I wanted to start by saying maybe Mayor Pro Tem Cole will fill in for me. I believe we'll be discussing this at audit and finance and especially talking about the customer program and the rate design. I wanted to make sure my colleagues were aware of that. And also I wanted to say that we received in the last week some information from chart and a chart that showed where IE's recommendations are, where those at the EUC is and also if there were some substantial minority opinions on the issues and the rate overall. And I think our EUC commissioners have been working really hard on this issue and so I would just again commend that to my colleagues for their review. I'm still working through it myself and talking with my commissioner, Barbara Day, who has done a tremendous amount of work on this. But there's a lot of substance in there and I hope we can use that in our dialogue in December. Can you give us a sense of generally -- well, let me the allocation method that you are using, if you could just be specific about which one it is, you talked about it and talked about some of the different viewpoints about the allocation method that should be used.

Right. Well, I would -- I'll start out by saying I would prefer to have that discussion in our rate design work because I will have some of the experts there that know a lot more about it than I do. But we have four critical peak methods, the four CP method and then we have the incidental peak, base incident at peak method is the VIP. What we did is selected a blending of that methodology so it took into account the opinions of both folks. Now, the argument is that residential customers would like to see one of those methodologies and industrial customers would like to see the other methodologies. So ultimately that was the discussion I had at the EUC level and it was pretty extensive and we ended up with a recommendation. But if that's fair enough we can go into the technical part of that at some other point.

Tovo: We'll probably have more discussion at that point anyway because I'm still working through all the information. I see a reference at the bottom of the chart that we received last week talking about an information request that several of the commissioners had submitted, and I believe it was an information request to see the BIP method, to rerun the rate using the BIP method and adjusting the revenue requirement. I wonder if you can just -- if you have a sense of why that information request wasn't able -

first of all, the timing of the request was that we had to give that to our consultant or we have to go back and rerun the entire data set. We left that to the EUC to decide which methodology to use and there are individual commissioners who felt one commissioner or the other. And they ended up having to decide - - make a decision at that point. And at that point the IE staff was pretty much out of the decision point and it was up to the EUC to decide that. So I really don't know how to answer that because the EUC actually ends up making the decision.

Tovo: Okay. And let's see. On -- so it looks to me like on the option, in terms of the option that was suggested, the vote was 4-3. Is that about -- is that correct?

Yeah. You're looking at the decision point list. And --

Tovo: We can talk about that in December if that makes better sense.

I'm trying to see if I have it. I think the point that you're making is really important and I would hope that before we do our workshops in December that everybody take a look at that because it's really an

important document. And it does show the minority points that commissioners made and it shows where they ended up as a whole and unanimous. But there was -- there were split discussions in the whole process that we went through because some folks want to represent that low using residential customers don't have any impacts, but the -- but the reality of it is that those are the furthest out of line with cost of service, way out of line with cost of service. And when you do the workshops in december, we will be showing you how far outside of cost of service that they are. Now, ultimately at the end of the day it is a policy decision about what we end up doing. And that's what we look forward to getting from the council ultimately is policy direction on that.

Tovo: Well, both of those low use residential users -- low use residential users in terms of increase and percentage on their bills.

On the percentage side yes. On the dollar side, that's -- there's a difference. Some of our larger residential customers would see a larger dollar amount.

Tovo: Absolutely. But if you're struggling to make your numbers work at the end of each month as many in the community are doing, the increase really does add up, even though the dollar amounts don't look like much to others.

We as staff have been very sensitive to that. we understand that.

Tovo: Well, I think we do have good discussions ahead of us. I have some quick questions about another subject. We received a letter from the austin independent school district talking about the rates and their concerns. It looks to me like the euc recommended a 95% cost of service -- aisd has requested that austin energy provide them with -- provide all public school districts with an 80% cost of service. And again, I think the details of that we would have to talk about later, but I wonder if it's possible to get some figures when we have that discussion for what the financial impact would be of the 80%.

Well, I will tell you that while we're not done with the rate recommendation, my recommendation is that we -- we're going to provide some discount for the schools. We're going to figure out a way to have the fiscal impact of the schools go down. We understand what's going on so that will be part of our rate design that we bring to you is some relief for the school districts. We heard them. Some of the other groups it's a little more difficult because we don't really categorize groups that way. But it is -- again, it is a policy decision by the council on how we deal with some of those types of accounts.

Tovo: And will we see some different options ranging from 80 percent to 95?

Yes.

Tovo: And then also was mentioned aggregate all meters. Are you going to provide us more information on that as we go forward?

Yes.

Tovo: And lastly, the customer assistance program, I've got a number of questions and we can take them up at the audit and finance and I did meet with (indiscernible) and he provided me with information and we can follow up. You mentioned in your comments that the rate proposal will contemplate doubling the budget for the customer assistance program, which is the program that provides assistance to our low income users across the facility. But right now we are only capturing about 38% of those eligible. So about 38% of those eligible are actually participating in the customer assistance program, so it's my understanding that doubling the amount we're spending is still maybe not even going to capture the 100% of those eligible. So these are folks in our community who buy austin energy's own standards are

eligible for receiving assistance and probably really need it. But yet we're not even gathering in half of them into our existing program.

We would desire to have everyone who qualify get the discount. That's our design. That's what we want. It is pretty typical, particularly of public utilities across the country, that they don't penetrate that far. We cannot -- we try to go out and try to do the outreach to get the customers to come in and sign up for it, but we don't reach full penetration on it. So I guess what I'm saying is that we're going to do the very best we can to do the outreach and try to get all these customers to come in and qualify, but we never get to 100%. No utility ever does. There's significant reasons that customers don't want to participate in the program. And that's -- we'll step up our effort and try to get -- if we get that many more we will service those customers. They will get the discount and our budget will be higher. And our costs will be higher. But that's our goal.

Tovo: Good. I think that program is critical and we need to penetrate further and make sure that we're getting a whole lot closer to that 100% and that we've got a rate design that allows for those participants to be served through that. So anyway, we'll talk about that more in the future. Thanks.

Mayor Leffingwell: I have a quick question about the cost of service. I wonder if you could explain to us the reason that it's important to maintain that -- within the range that you described, 95 to 105 across the service plan that is important to the utility from the perspective of how the public utility commission would view and others might view?

Right. As you know, there's a potential. Austin energy's service area, half of it is outside the city of Austin. And half of it outside the city of Austin has those customers theoretically don't have anybody that they elect to represent them. So they can take it to the public utility commission to be reviewed. And when it's done at that level, cost of service is very important. Cost of service in the classes of customers. So if there's large subsidies from one class of customer to another class of customer, then that's not favored by the utility commission. There will be a number of other issues that will come up as a part of that process. I've been asked many times what is the likelihood of it going to the utility commission. I think it depends on the work that we do in December and January and where we end up. And I can't predict that right now. The difficulty with this is we've been projecting what our rates need to be, but we have not delivered a rate design to the council yet. And -- but I hope I answered your question.

Mayor Leffingwell: Yeah, I think so. And finally, I know we have some industrial contract for electricity that are good through 2015 or they don't expire until 2015. I was wondering, I think one of the customers is the state of Texas. Are contracts like that generally considered to be across the cost of service range?

Yes. What we expect is that that revenue from that discount is accounted for and 2015 we'll expect for that revenue to be recovered back when those contractors go off. And then we'll have to have probably some long discussions with those customers. I'm sure they would like to see contracts again, but that's some work we have to do down the road. Right now interclass customers are subsidizing those discounts for those customers.

Mayor Leffingwell: I guess I was just trying to confirm if it would be possible to approach the school district from a contract perspective if we're not already doing that?

We can. The contracts were created out of competitive environment, as you know. And they're difficult to administer. We would rather not get into contracting with large customers like that. School districts take up many, many accounts. And -- but I will take that back to my staff and we'll talk about what the impacts of that might be.

Mayor Leffingwell: Anything else? Councilmember Morrison.

Morrison: Thank you. I have a few questions. Thank you, Mr. Weiss. Just to follow up on Councilmember Toivo in terms of the customer assistance program and the number of folks that would be eligible versus the number that actually get enrolled in the program. There is a model elsewhere in the state of actually tying automatically the eligibility or the participation in the customer assistance to participation and other programs like SNAP and -- I think maybe El Paso does it. And I think that's a model that we've looked at and I'm certainly interested in promoting. So I don't know if that changes your calculations in terms of revenue requirements in any way. And I'm not sure exactly what eligibility levels -- what participation level you're projecting. But I just wanted to throw that out there because I hope that we can do better.

Right. I hate to throw too much on to Council, but really at the end of the day the policy of how we apply the program and how it's administered and how it's charged and everything, ultimately it's the Council that decides what that policy is. That's the dialogue I'm looking forward to because I suspect that while we'll bring forward a rate package that we think is 100% complete, we're realists and we know we'll get feedback and we'll come back with changes. So I think that's the opportunity to investigate some of those ideas and some of those concepts because it really is policy direction that we need in order to make these programs very effective. So we look forward to that.

Morrison: Okay. And I think to help that conversation would be good to make sure that we have, for instance, what is the projected participation rate and what are the revenue changes that would be -- that we would see if we increase that.

Right.

Morrison: And then a couple other things I wanted to mention. You know we recently went through some extensive dialogue on our brother or sister utility, the water utility, and they had introduced a fixed fee. And in the end -- on residential customers. And in the end what we adopted was sort of an interim fixed fee with direction to sort of go back and help us get a recommendation on a tiered fixed fee based on the amount of usage of the resource. And so -- it seems to me that all of the considerations or several of the considerations and our trying to move in that direction are analogous here, i.e., will it impact the low users the most and could negatively impact our attempts to conserve and all. So I wonder if you all have had an opportunity to consider a tiered or graduated fixed fee in the same manner that we're now looking at with our water and wastewater commission, our resource management commission and our impact advisory.

Unfortunately or unfortunately I have extensive experience with water rates as well. They are two different businesses. Electricity business we have to recover the cost of the generation to provide that and we have extensive O and M costs in doing that. In the water side of the business, most of your costs associated with debt. Your operating costs are pretty low, your debt and everything is pretty high. So when you try to recover your revenue through usage and water, you can end up with big problems when -- if you do a lot of conservation and everything else like that. In electricity it's not quite that way because a significant amount of our cost is associated with -- it's just like what we just showed for you performance this year. We had all these sales and we had a cost to produce the sale. And that's the generation. Water is not free, but it's almost free. It's really the treatment of it and everything else and how that works. So you really can't compare water rate-making with that. But you do need to understand that the stability of the base revenue for water is really important, really important. And when you have aggressive conservation of water and everything you can deteriorate the revenue really fast. It's really not a good comparison with electric. To answer your question we did look at this in our base analysis. We were asked by one commissioner, why don't you have a different fixed cost associated with usage? Well, we've got a lot of volumetric costs in there anyway. In other words, it doesn't make any sense to do that. If you're going to do that, why not make everything volumetric?

Morrison: Some people would suggest that.

Some people would suggest that, however, we're not suggesting that because we're not a regulated private utility. We are owned by the customers we serve. Okay? And so one of our objectives has been -- lane talked about it -- is to unbundle our rates and make them very transparent. Now, when you do that you take apart all those costs and we'll get into this in december. It's very philosophical to have like a wires charge and a minimum customer charge, but remember that the energy costs go way down, the kilo watt hour charge because we were putting that in the kilo watt charge in the existing rates that we have today. So I understand your points, very philosophical --

Morrison: It's very philosophical, but we also need to realize, have a very pragmatic impact on the low users in that their percent increase in their bill is significant compared to others. And so that's why I think if there's continued conversation.

Right. I can tell you now that real cost of service for every residential customer is a combination of wires charge and basically billing and all that. It comes up to \$33 a month. A little bit north of \$33 a month. Our recommendation is going to come in for a combine of \$22 a month. So already we were making a significant shift from cost of service to our basic fees. Pedernales electric out there is \$25 a month. 50 a month. It is -- it is the trend to go that way because otherwise we're not recovering our costs. Sorry to go into the water part, but they're two different types of --

Morrison: Okay. I'm sure we'll be hearing more about this. One of the other issues that arose in the water conversation was that there is a cost to adding a new customer. And so -- and in the water world we look at impact fees, and that's now going to be part of the conversation as to whether we should be adjusting those. So are there ways that the electric utility can break out the difference in serving an existing customer versus the added cost to the utility of continuing to add new customers? Because that's a charge you would hope to be able to not put on the existing customer.

Yeah. Well, I've already instituted -- I'm instituting inside internal austin energy a thorough evaluation of what new customers pay to hook up to our system. I believe there's revenue there that we're not recovering. And that also has something to do with our electric rates. So as we work in november to deliver a rate recommendation to you, I'm taking into account some significant sources of other revenue that are part of our revenue requirement that i don't know if they've been looked at -- I know the history. I've asked the questions and some of these discussions have come up. But the extensive rate discussions of austin energy go back to the early '90's and the south texas nuclear project. So a lot of that history is from a different era. But we'll k taking a look at that. I've been given that direction by a couple of euc members that have been around a long time. And she and I are in total agreement, just so you know.

Morrison: Can you help me understand? Because our rate redesign assumes that we're going to be actually charging an updated new customer fee?

I want to leave a little bit of surprise for you, but I -- but what I can say is that -- what I can say is that in the rate design that I'm working on I have to take a real leadership thing on this going forward and the recommendation of the council. I'm leaving some room in that because I feel that there's additional revenue requirements that I can take out of the utility's needs and I don't know if that is enough or not in the area that you're talking about. I have some work being done right now to find out what that is.

Morrison: So ideally, of course, that revenue investment or that relook information would have been integrated and are we just a little out of sync here? Because you're suggesting we'll have to (indiscernible) a little bit.

Right. So in a perfect world if i were to start this all over again because I'm new kid on the block here, I would have come in and looked at some of those things first and then got to the rates. But the -- in my

opinion the rates should have been looked at at austin energy several years ago. But -- so now we're playing a game of checkup. So I can't really start looking at these other initiatives at the same time. We really do have a revenue problem. We really do need a rate change and we need to restructure the rates. So -- but we also in our forecast have rates in the future not go up by the same methodology. By trying to be more efficient, trying to look at other sources of renew and be creative, that will help make our affordability goal. We'll still be within the metrics that we want to be in the state in terms of our costs. That's the goal I'm trying to achieve.

Morrison: Okay. I guess -- so I'll wait for the surprise. We've waited years for a rate case and if it's a non-tariff revenue source that we're not tapping in, I want to know why we're not moving forward after waiting 17 years to not align properly?

I can tell from your professional judgment that that new amount of money is not significant enough to change the game that we're in right now looking at these rates.

Morrison: Okay. I look forward to getting some of those numbers.

But it all adds up.

Morrison: All right. Thank you.

Mayor Leffingwell: Thank you very much. That brings us to time for citizens communication. The first speaker is Gus Pena. His topic is Happy Veteran's Day and the entire subject matter is rather lengthy, but it has to do with our set rans and the United States Marine Corps birthday. Mayor, councilmembers. Thank you very much for mentioning that, Mayor. And thank you for serving our country, Mr. Mayor. You were in the Navy, I believe. Mike Bowen is an Army veteran over here. Thank you for serving our country. Our military veterans served our country with honor and distinction. We don't shirk our duty or shy away from a fight. We have veterans without homes and not enough affordable housing. I would like to say this. It says Happy Veteran's Day. Be sure to thank all veterans, past, present for their service, sacrifices and dedication to our and other countries freedom, safety and democracy. We gave it all in favor. Happy birthday to the United States Marine Corps on our 236th birthday. Remember the millter person Mel in Iraq and military war veterans. They need the love and courtesy and help more than what they're getting here when they return. Remember and thank all current and military personnel. They need jobs, mental health treatment, PTSD treatment, housing, re-entry counseling. Show your appreciation and thanks everyday, not only on Veteran's Day, but on everyday. I want to mention my father Lucio, World War I veteran, may he rest in peace. My older brother Lucio, may he rest in peace. My brothers in the United States Marine Corps and Air Force, Navy, my baby brother, United States Marine Corps veteran. Thank you for serving our I want to say this and I'll keep it brief. I tend to get emotional. Alex, last infantryman to die in Vietnam. Classmate. We lost him in 1971. I want to ask -- I want to demand that all people don't forget the Vietnam War veterans. The Vietnam War veterans never have gotten the respect and the help that they need and they deserve. We went out there-- we were asked to go, we were ordered. I went tail wind into Vietnam. They deserve respect. Don't forget their service to our country. All the Vietnam set vans served. They still want and need housing. They need help. A lot are homeless and in the homeless camps. This is my album, 42 years ago, when I graduated from boot camp. This is my ugly face when I graduated from boot camp. I want to thank you, Mayor, for the respect and councilmembers, the courtesy you've afforded the veterans. They need jobs. Please thank them again. Show your appreciation. We gave our all for our country. I love my country even with the deficiencies and problems. I would gladly serve again. Thank you very much. God bless America and the United States Marine Corps. [Applause]

Mayor Leffingwell: Thank you, Gus. I don't think you've changed a bit since that photograph. And happy birthday to the United States Marine Corps. Next speaker is Walter Olenick. Topic is water fluoridation.

Good afternoon. I've been in construction for 40-plus years now, and before moving to Austin I spent 25

years in the desert and 110-degree temperatures sometimes building las vegas casinos. And I'm still very active outdoors here maintain maintaining our 20-unit apartment complex. I drink a lot of fluids, probably three or four times as much as average people. Always needing to rehydrate. And especially in austin's long, hot summers. And in fact, I always have a bottle of water, juice, tea, something with me to keep rehydrated. I have one now. During my years in las vegas construction I noticed that I would crack ribs quite easily. The condition is self-healing, though not a lot of fun. Kind of an occupational hazard, I figured, construction is dangerous. The fractures continued after a moved here. Then in 2003 I was diagnosed with oosteopenia. I was losing bone max and the doctor prescribed phosomax. That didn't do much except give me acid reflux, so after a couple of years i quit taking that. But I always associated osteoporosis with post-men pausal women who go through a great hormone change. Not with active, healthy, weight-bearing males. But I have it. So it was at that point that my wife rae got involved. She's an experienced researcher and it didn't take very deep research to discover the well-known link between fluoride consumption and bone disease. She quickly learned too that so-called vulnerable sub-populations, people for various reasons who are susceptible to health damage from fluoride ingestion, among those were groups who consumed larger than average quantities of water. Like construction workers. So of course, we're only one of many vulnerable subpopulations. Others include diabetics, kidney patients, thyroid patients, blacks and hispanics and low income groups, infants, the elderly. It's a very long list. They all deserve notification that the austin water utility's product ses a distinct threat of harm to them. I think the obvious place to put that warning is on the austin water utility's monthly bill. And we've requested this in other venues as well. So I would like you to consider that and let these people know that they're at risk because currently they have no idea. [Applause]

Mayor Leffingwell: Thank you. Tom davis. Topic is city water policy.

Good afternoon. I'm tom davis, the chair of the austin human rights commission. I'm here today to speak only for myself. Austin is facing a stage 3 water conservation measure. One of the major restrictions on all conservation stages is a restriction on watering, which is intended to mean the watering of lawns. I I'm here to speak to you today because the word watering in city policy needs to be changed. It needs to be broken down into a set of categories with different restrictions on each. First there's obviously the watering of lawns, keeping plants green whose main job is to make the land not look bare. The existing restrictions on watering are perfectly appropriate if that. However, this problem, like a whole bunch of problems we're facing these days, isn't as simple as it looks at first. We are running off the end of the age of oil. The cost of transporting goods like food is going up. And the price of food as you all noticed when you've gone shopping, is going up right along with it. The city of austin has to start paying attention, serious attention to local food production, whether that be on urban farms or even city lots. Specifically austin water policy needs to be changed to allow the watering of food plants, whether on farms served by austin water or on individual lots, at a different rate than the watering of lawns. Yes, we need water to live and the conservation measures are mostly effective in keeping that water available, but we also need food to live. And the cost of getting it rises with the cost of gasoline and it will become more and more necessary for the city of austin to encourage local food production. If local food is unavailable because the local food plants have died due to restrictions on watering, we're soon going to be up a certain creek whose name i won't mention, without a paddle. Or more to the point, we'll be without adequate affordable food. Another factor to consider is our trees. Austin is justly proud of our trees. We often have ordinances to protect them. But what good is that protection if we're tied to watering the trees with the same restriction as the grass? Not very much. And then when you consider water conservation measures in austin policy, I want to ask you please give serious attention to breaking that term watering down into a set of appropriate categories. An example set, which certainly would need study and more attention is watering decorative lawns, watering things like golf places, watering non-fruit bearing trees, watering food bearing trees. Watering food plants on farms and watering food plants on individual lots. So I want to urge you as you guide austin's water policy over the next few years, make it encourage local food production so that austin may grow and thrive. Thank you. I have copies of my remarks and I would be glad to leave with you if you would like.

Mayor Leffingwell: You can pass those to the clerk. Thank you. [Applause] bryan j. overman. Topic is

regarding the use of city property designated as public space. And you have three minutes.

Thank you very much for the opportunity to be here with you and communicate with you directly today regarding this concern. On October 28th assistant city manager Michael McDonald issued a Mexican-American town city councilmembers titled Occupy Austin and use of city hall. As you know the city has a written building usage policy for city hall. The policy designates certain areas, including the area on Cesar Chavez, the mezzanine area as public area appropriate for free speech activities such as the Occupy Austin movement. In the past council has by resolution directed the amendment of this policy to designate other areas of city hall as free speech areas. According to section 914, the sleeping outdoors in the downtown Austin community ordinance does not apply to participants who view a parade or festival, performance, rally, demonstration or similar event. So the normal council resolution process that would be used to make amendments to the public use policy is being bypassed by the city managers to prejudicially place restrictions on the freedom of speech activities of an individual group, namely Occupy Austin. Our city councilmembers are elected to represent us. I encourage you to take your power back. Do not let the council be hijacked by the city managers. Stand up and demand that you be allowed to represent our needs. We have hundreds of people dedicated enough to sleep on cold concrete every night for this cause. We have thousands that join us on action marches. If you think that we will not apply that same dedication to marching to the voting booth to remove those who hide behind the unilateral proclamations of city managers instead of insisting on the proper essence of law, you are mistaken. We elected you to protect us from those who would selectively apply policies or create new policies that apply only to our group. We are begging for your help. Our first amendment rights are being violated. Please take back your power. [Applause]

Mayor Leffingwell: Thank you.

Are there any questions?

Morrison: Mayor?

Mayor Leffingwell: Councilmember Morrison.

Mayor Leffingwell: I have a question, a follow-up to what you've spoken about. About Overman and it's actually for staff. Because as I understand it, subsequent to those guidelines that you were describing, there were some arrests and some notices of criminal trespass. And my question for staff is a question I've been asking for a few days now. And I don't know if the answer is available yet. I was interested in those notices of criminal trespass and for what duration were they given? And how is it recorded? Because as I understand it, what is coming back to me is that it's a verbal notice. And I also have heard that there were for two years, and that seems particularly onerous and is inconsistent with the guidelines in the new bulletin that the city manager gave out, which said it would be only a year if there were serious bodily harm. So I'm really concerned that we haven't been able to get these answers over the past few days. I think they're answers that everybody needs. And also for -- if somebody signed up for citizens communication and was given a notice of trespass.

Criminal trespass, I think the advice has been given that they are not allowed to come to citizens so we have a lot of work to do on this and I think it will start with getting answers to those questions.

Tovo: Mayor, I will be in support of what my colleague said and also we do need clarification so what constitutes city business. My understanding is there would be provisions made for those who had trespassing notices to come back for city business and councilmember Morrison has raised an issue of citizens communication, if you're on the agenda whether or not that constitutes city business. But also my office received today a call from somebody with a meeting scheduled and is working as a contractor on a city project and has received a criminal process. We need answers to that. I did talk to city manager Ott and chief McDonald and so I'm hopeful that we'll get some answers about what constitutes city business and how and whether if you've received a criminal trespass notice, whether you can come

back on property to conduct city business. Thank you.

I'm my piedra? Not in the chamber. Clay da foe. Topic is the downtown austin plan.

>

good afternoon, ladies and gentlemen. I'm here today before you today to express my concerns about the adoption of the downtown austin plan. Before I go into that, i want to inform my fellow citizens that city council had a work session on monday. They're working on new rules to further limit citizens from participating in council. This is an initiative being pushed by mayor leffingwell, sheryl cole and laura morrison have also entered negotiation. I don't think we need changes. martinez told me he would not support any changes. I respect that position. And if there are changes made, I think we need to vote out each and every single councilmember that supports that. Back to the plan. The key components of the plan are to destroy old austin. Basically initiate this new downtown signature parks we already have, complete part of urban rail, get management in greater control over the businesses that can be located on sixth street. To add affordable housing downtown, to remove zoning protections and to establish a monopolistic central city economic development corporation that will ultimately control the future of downtown. Page 24 of the executive summary openly pushes for over 400,000 square feet of new retail shops, nightclubs and restaurants. I do not believe that it is the government's job to run the economy. And certainly not to decide which businesses can and cannot run downtown. It is a decision for the citizens of austin and the free market to decide. Thus the city's central economic planning will further consolidate government corporate power. It will eliminate auto industry citizen consideration and future city zoning matters and only tend to unnecessarily bloat the city budget. It has an awful squinting. An awful squinting towards concerns express odd page 26. Concerns that some local businesses will be priced out. That downtown's role as the region's center of live music is in danger of being displaced by redevelopment and that downtown's historic fabric is at risk of being demolished. And it will all become true, unintended effects of the adoption of the downtown austin plan. Specifically downtown austin alliance has not served the whole interest of the citizens. And despite serious concerns pushed with this unnatural favored and deferred to status on city hall. 10 Years to 2021 is too long for our city's downtown plan to be so heavily influenced by one group. Mccann adams studio, hr and a advisers and studio 8 architects have also reaped their own corporate welfare benefits as members of the so-called consultant team. [Buzzer sounds] I'll continue more on this later. Please vote no on the downtown austin plan.

Mayor Leffingwell: Next speaker is james o'brien. I believe he is not in the chamber. Next speaker is phillip green. No specified topic.

Thank you, councilmembers. I'm a little perplexed that I have to continue to take off time from work to come up here and speak before you all. We've presented you for years now scientific study after scientific study proving that fluoride is not safe and not effective. The recent health and human services subcommittee meeting where we invited jane browser, members from hhf and dozens of activists who are opposed to fluoridation. The hhs, jane browser, did not cite a single scientific study proving fluoride to be safe or effective. I actually went back to the march 18th health and human services committee meeting and again they did not cite a single randomized clinical study proving fluoride to be safe or effective. On the other hand, we have presented you with dozens if not hundreds of studies. 24 Studies from around the planet showing that low levels of fluoride decrease brain function and lower iq. 24 Studies. The national academy of science and national research council was in 2006 to review their safe limits for fluoride levels. The committee concludes that 's mcfg of four milligrams per liter should be lowered. Furthermore they suggested should consider susceptible populations, characterize uncertainties and variabilities and provide better estimates of total exposure for individuals. They have not done this. You have not presented information to the people of austin that proves that this substance, which has not , is safe or effective. In fact, the national research council, the national academy of science study, shows that fluoride is not only linked to down syndrome, various cancers, complications of diabetes, but a host of illnesses that is unnecessary. We do not -- what is point of

adding a substance to our drinking water that the cdc now says predominantly is effective topically? Therefore the ingestion of this fluoridated substance that we know to be toxic, we know contains trace amounts of arsenic, other chemicals, these facts aren't disputed. 7 parts per million is a safe and effective level for the entire population. Well, that doesn't take into consideration the dosage control. It doesn't take into consideration the effects on infants. Which they have come out themselves and recommended parents not to get fluoridated water or limit fluoridated water to children. It sad ens me that a large percentage of our population here in austin is unaware that they may be hyper sensitive or allergic to this insidious, toxic substance. It is not naturally occurring in fluoride. It is not calcium fluoride. It is hydro florric is a listic acid. Take it out of the drinking water. Follow college station and lago vista.

Mayor Leffingwell: Rae olenick. Poppic is water fluoridation.

Good afternoon, mayor and council. We've heard tell of a letter sent by the pugh charitable chuft sent to the chair of the health and human services just days before the committee's october 18 vote to defer a vote on fluoride. Is any one of you able to produce a copy of that for me to look at? Okay. The letter allegedly pressures the committee to reject the warning. The reason we know about it is that a reference to it was posted on the public health minutes listserv on october 24th by a pew official. Matt jacob is communications manager of pugh's children's dental health campaign, so we assume he knows what he's talking about. His exact words to his news group were, quote, just last week a committee of the austin, texas city council voted 3-0 against a proposal requiring the city's water company to place the warning about community water fluoridation on all consumer water bills. Pugh wrote a letter urging the committee to reject this unnecessary and misleading warning, unquote. What I would like to know is how often do distant bureaucracies meddling in austin's internal affairs determine the outcome entirely or in part? Why are they permitted to medal at all? -- Meddle at all? The question goes beyond the matter of water fluoridation to the issue of home rule. Who does the city council really answer to? Austinites or outside interests? So far as fluoridation goes, this city council listens to the cdc based in atlanta, and ama based in chicago, and now it appears the pugh trust based in philadelphia. The one group whose input it resists is seemingly the people of austin themselves. Austinites of community stature and impressive credentials, practicing DENTISTS, DOCTORS, Ph.D'S, Scientists, pharmacists, nurses, den at hygienists have appeared here only to have their testimony cavalierly dismissed. Nor has the council heeded voices from the past, the grave miss givings of the late roy butler on whose watch fluoridation passed. bio chemistry professor alfred taylor whose laboratory studies showing the length between sodium fluoride and cancer remain definitive to this day. That's all I have for today. Something to think about. [Applause]

Mayor Leffingwell: Thank you. So those are all the speakers that we have in citizens communication. And so we're going to go into executive session. And just to give everyone out here kind after head's up as to how we're going to proceed, we may not be able to complete our executive session in the time that we have. We have to be back out here at 2:00 p.m. For an absolute time certain, a bond discussion of items 51 through 55. That has to be done. 00, which is the deadline in new york. And then we have our time certain item also, item 36, which will take up after that. So we don't expect to have our other morning briefing 00, maybe later than that. That's on resource recovery. So with that said, just by way of information, without objection, the city council will go into closed session to take up three items 071 of the government code, the city council will consult with legal counsel regarding the following three items: Item 48, to discuss legal issues related to austin firefighters association et al versus the city of austin et al. And item 49 to discuss legal issues relating to open government matters. And item 50 torks discuss legal issues relating to byron carter senior, et al, versus the city of austin et al. Any objection to going into executive session on the items announced? Hearing none, the council will now go into executive session.

Mayor Leffingwell: We're out of closed session. In closed session we took up to discuss legal issues related to item 49. We'll be going back in to executive session later to discuss items 48 and 50. We'll begin with our bond items, items 51 through 55. And I've had a request that we first consider items 52 through 55, along with items 11 and 12. 12 So that we can -- there's a time sensitive factner this and the paper has to be in san antonio in a couple of hours. So I believe, council, we can consider items 11, 52

and 53 together. And then we'll take up items 12, 54 and 55 together. Did you hear that, I hope?

Mark is passing out a book about the whisper valley and indian hills bond sales. We priced bonds yesterday for indian hills and whisper valley. And the closing will be november 16th. On page 3 the issuer of these bonds is the city of austin. The obligator is whisper and indian hills pid. The bonds were negotiated. Bond counsel was fulbright & jaworski. Piper jafry was the underwriter. I would like to thank seferlz with the city for all their efforts in completing these transactions. A location made is on page 4. -- A location map is on page 4. These two pids are east of austin on highway 130. Page 5 -- it's been a very long process. The start of this was in may of 2008 when council directed staff to begin negotiation with the developer. On august 24 of '11, there was a public hearing. And finally today we're having the bond sale. And I'm going to turn this over to mark with piper jafry to talk a little bit about the bonds.

Dennis, thank you very much for that introduction. It really is a pleasure to be here. I know people say it all the time, but I've been working on the financing rather intently for 13 months. It truly is a pleasure to be here after marketing the bonds successfully the last couple of days. This is the first pid that's been undertaken under the new and improved law in the state of texas. And we spent a long time working on a seamless financing that would address all of the issues that needed to be address understand this kind of financing. I certainly think we got there. The market reception for the financing, we had a very expensive national marketing on the four different series of debt. It was very strong considering the infrastructure and development type of financing this is, where we are in the national economy and really showed well in terms of the reflection on the local austin economy and that it's functioning very, very well compared to many different parts of the country while obviously. The financing went very well. It was put together -- at this point we're looking at closing in two weeks and i want to thank you very much. As assured by the pid liens on this property, there are no other taxes or general revenue involved. It is secured directly by the two liens against the two properties, whisper valley and indian hills. Dennis thanked the four key staff people, karen and brent in particular, who did a remarkable job on this also, and I want to thank too robert of fulbright and fulbright & jaworski. And last but not least, doug gilleland, who I think many of you know who worked for this project, hnd his whole team of tally williams, steve metcalf and the other folks working with him in putting together this financing. Thank you so much for being here and for considering this item today. And we're looking forward to a quick closing. Hopefully getting that infrastructure built out to the east end of your community as soon as you can. Thank you so much.

Mayor Leffingwell: Thank you. Any questions? Mayor pro tem cole?

I think [inaudible].

Mayor Leffingwell: Councilmember martinez moves to approve items 11, 52 and 53. Second by mayor pro tem cole. Is there any discussion? Let me just say that I know it's been a long time coming and this was kind of a unique -- I think it's one of a kind, maybe first of a kind at least for us. And there are a lot of new and unique problems that have to be addressed. All in favor? Opposed say no? Passes on a vote of six to zero with councilmember spelman off the dias. Ainld consider that have we already had the briefing on items 12, 54 and 55 together. Which is the whisper valley part.

Yes.

I'll entertain a motion on those items, 12, 54 and 55. Mayor pro tem cole moves approval. Seconded by councilmember morrison. Further discussion? All in favor say aye. Opposed say no. Passes on a vote of six to zero with councilmember spelman off the dias. So now we'll go to item number 51.

Phil newman is passing out the books for the water and wastewater bond sale. We will be selling approximately 230 million in bonds for the water and wastewater utility to refund 175 million of commercial paper. And also to refund some outstanding bonds for debt service savings. The transaction will be negotiated, fulbright & jaworski the bond counsel. First southwest will be the underwriter and the

ratings for the water utility I'm very glad to say were affirmed by all three ratings agencies, double a 2, double a and double a minus. Your book shows some of the highlights, some of the comments from the rating agencies. I would like to thank mayor leffingwell for being at the rating agencies and helping us as well as austin water utility staff and financial services staff for their help with the rating presentations. Some great comments from the rating agencies. Standards and poors cited the continued customer growth and very solid overall wealth and income levels. All three rating agencies talked about your long-term water agreement, which really serves you very well. And this sound financial condition of the water utility. Fitch mentioned the revenue stability fee that was implemented this year and then moody's talked about the improved liquidity of the water and wastewater system. Key dates, we had rating agency meetings on the 18th of october. Received our ratings on the 31st. Bond sale will be on the 15th and close december 7th. This is a parameter sale, so what we're asking is for permission to move forward with the sale if we meet certain parameters. Those would be that we don't exceed a certain par amount, the savings on the refunding exceeds your financial problems, which is four and a quarter. At this time the refunding for savings portion of this 61 percent in savings for about \$4.1 million. So I would be happy to answer any questions, and thank you for your time.

Mayor Leffingwell: Any questions for bond counsel? Councilmember spelman.

Spelman: Mayor, I don't have it in front of me. Do we have any speakers signed up?

Mayor Leffingwell: Yes, we do.

Spelman: I'll wait for them.

Mayor Leffingwell: Yeah. Thank you. And let me just say another thing for the city of austin to be proud of, and with the good bond counsel we have and gt financial practices, so far this year we've maintained our triple ag.o. Bond rating and maintained the exact same ratings that we had before, double a for the water utility by all three rating agencies. I think that's something of an accomplishment given the economic times we're operating in. I certainly want to thank all of you and the city manager and his staff for their work to make this happen. We do have two speakers signed up, bill bunch, three minutes. Against.

thank you, councilmembers. Bill bunch speaking and urging you to postpone this item at minimum and alternatively to vote against it, until you have sufficient information to be well informed about what you're being asked to approve. As I read the backup, they're not going to market today or tomorrow, but at some time between now and next may, I believe is the authorization they're saying they would like for you to have. As I've just mentioned, it's sort of a parameter sale. So there's a lot of leeway there. It's not very well-defined. I can't say I'm a bond expert, but there's a lot of unanswered questions here. We sent to you earlier a letter about the misrepresentations and material omissions on the bond prospectus for the water and wastewater utility from last november. There were some serious misstatements made in those proposals. You have essentially the same cast of bond managers handling this proposal as you did last year. It's my understanding that the draft bond document prospectus, not the final, but a draft, was just provided an hour or so ago. So I can't imagine that any of you have had an opportunity to even look over it, certainly not read it, 110 page document, fine print, etcetera. So I'd also like to point out that your backup lists first southwest as a senior manager. I sent to you an article from the bond buyer industry newsletter from july 14th of this summer pointing out the bidding irregularities and fraudulent security actions taken by first southwest and jp morgan in handling bonds for the ctrma right here in austin, texas. That was an agreement settlement in -- an agreed splment in which those parties were pegged as basically bid rigging. An 800,000-dollar expense to the ctrma. I recently filed an information request to get the contractual agreements for the city and first southwest. No agreement exists for their work listed here as the lead senior manager of this proposal. There's only one contract on record and it has nothing to do with this matter. An it was first southwest that was pegged as basically defrauding the ctrma in conjunction with jp morgan. Jp morgan is also listed as one of our co-mrpgz here a this. I don't have if they have a contract, but these questions need to be answered. [Buzzer sounds] sooner rather

than later. Thank you.

Mayor Leffingwell: Next speaker is paul robbins. Also against. Three minutes.

It seems the recent debate over when the elections would be held, people arguing for the november ballot were arguing that they wanted more participation. Contrast this to the fact that you are now passing debt that will be sold as revenue bonds without voter approval as specified in the city charter. It is hard to find words to state how cynical this is, but I'm going to try. In government you have two basic types of people. Public servants and bureaucrats. Public servants are there on a mission. Bureaucrats are there for a pension. Many distinct qualities separate these two kinds of people. But the paramount defining quality is that bureaucrats hate voters. It would be politically risky for them to say so publicly, but bureaucrats won't. And most bureaucrats won't, but the last thing a bureaucrat wants to see is an engaged electorate be towing their proposals at the ballot box. Some have said the charter language is illegal. This seems farfetched in that every city attorney between 1926 and 1998 approved ballot wording. But if there are some of you that think this has changed, the best thing would be to revise the charter to make sure the wording is complying with state law. And I have heard no serious discussion of this despite passionate pleas to turn out more voters for council elections, several of you really don't want to hear from us, at least about certain things. Thank you.

Mayor Leffingwell: Next speaker is nicole thomas. Nicole thomas is not here. Those are all the speakers that we have. Council, I'll entertain a motion on item number 51. Mayor pro tem moves approval. And I will second. Discussion? Councilmember spelman.

Spelman: We've had some substantial controversy come up just the last six minutes on this refunding proposal. If there's someone from the water utility that could discuss it with me, I would certainly appreciate it.

Afternoon.

Spelman: Good afternoon. Tell me, distinguish if you could our usual bond sales and this refunding bond. What is a refunding bond?

I would really defer to our bond experts to go into the details of that.

Spelman: Fair enough.

This does not differ from what we've done in the past. This is the refunding of commercial paper, which we did last fall. And the other part of it is the refunding of some bonds for savings, which we have done many times over the years.

What is the meaning of refunding in this context?

Refunding for savings is we take bonds that were currently outstanding, we refund them into new bonds at a lower interest rate.

Spelman: Okay. So it's like I've got a mortgage at six percent and I can get a mortgage at four%, so I go back and i just my mortgage by turping in the old one and getting a new one, so my interest rates go down. Basically that's what we're talking about doing here. So we're not incurring any additional debt on the water utility in this series. All we're doing is taking the old debt and refunding it so that we're paying off the debt at a lower interest rate.

Part of this is exactly what you just explained. The other part is to take debt that you have incurred as commercial paper. Now you will reduce the \$175 million of commercial paper and bring on bonds for

basically the same amount. So you won't incur additional overall debt, it will just go from one source to another.

Spelman: And the reason for turning in the commercial paper and replacing it with the long-term revenue bond is that intrt rate on the revenue bond is lower than the commercial paper rate.

No, sir. The revenue bond rate will be higher than a long-term rate than if you invest it for 30 days. You borrowed for 30 days and then borrowing for a longer period of time.

Spelman: Our interest payments will be lower if we stop paying commercial paper rates even though they're lower for shorter term. And extend the term by using revenue bonds instead. We'll be paying less in interest rates.

Your borrowing rates will be higher from the long-term bonds because have you an upward sloping deal curve.

Spelman: Why are we doing this.

You have to take out the commercial paper. You use the commercial paper for your cip need. As you incur borrowing through your cip, you build that up and you borrow at those low rates so you do not have negative arbitrage by borrowing long-term. And this is a cycle that we go through each and every year. We build up the commercial paper program to a point and then you need to roll that long so that now you can begin to use your commercial paper program again for any additional projects you have.

Spelman: Okay. So there is a limit as to how much commercial paper we can use.

Yes.

Spelman: We're closing in on the limit and so we need to roll that into longer term bond.

That's correct.

Spelman: So we have space --

additional capacity in the commercial paper program.

Spelman: Gotcha. I understand. bunch suggested that first southwest andp morgan had indulged in -- what's the word for it here -- fraudulent bidding practices. The sek had charged them with fraudulent bidding practices. I wonder if you could discuss that with us?

To the extent I can i would be happy to. I'll bill newman. Unfortunately and certainly not a copout, it's not uncommon these days for firms to be heavily scrutinized in the derivatives markets we have today and the trading going on. Fact that these folks were scrutinized and a settlement was reached tells me that the situation was resolved. I don't know all of the details on it. The fact that they were engaged in this and are now clear of it does not preclude them from doing business in industry as an underwriter. When we do a transaction like this, we compare the rates that they're offering us and a type of -- and other types of transactions around the country to ensure that each and every rate on each and every maturity is at or below the market rates on a similar or like credit. And so as your financial advisor that's what we're there for is to guarantee, if you would, that there are no improprieties in this bidding process and that's what we would serve to do here.

Spelman: How do you do that, mr. newman?

Just by doing what I just spelman, by observing the market and doing our job. Our job is to say okay, we're going to go into the market today with a transaction that's double a rated, the mawrts will be from 2012 to 2030, whatever the range is. We look before we go into market at what other day before, the week before. And see where they are. Look at okay, where has the market moved in the last few days since we've seen these others go into play. Sale, we talk to our pricing desk and other pricing desks and others to see okay, what is the market today and where should these things be going? At the time of the sale you will get, just as an example, let's assume you had \$10 million in each one of those maturities. You will get bids for excess of 10 million. We push them down to a maturity until we get to a place that is at or below today's market. That's how you come up with such a good deal.

Spelman: Had ctrma hired you -- ctrma did not by any chance hire you before their last bond sale, did they?

No, sir.

Spelman: Had they done so, in your opinion would they have put themselves in a position where they had an 800,000-dollar settlement.

So you have some means of ensuring the price is reasonable and at market level.

Yes, sir. That's obviously why you hire us. If somebody comes along and says hey, this is a bad deal, you will sue this guy first and that guy right there. Because we didn't do our job.

If it's a bad deal you will let us know about it.

We're your buffer. If you didn't get a good deal, we didn't do our job.

Spelman: I understand. Thank you, sir. I think greg, this is a question for you. And if it's not, again please feel free to pass it on to whoever it would be the right question for. bunch and I believe robins before him a few weeks ago, are you the prospectus we spent along with the last water bond sale was ill advised in some respects. I wonder if you could respond to that?

I think you're referring to the prospectus. It's from all sources across the city. There was element at the time of assembly we start this in the summer before we've completed audited work and other related activities. bunch had pointed out that our 2010 pumpage numbers were not reflective of what we actually pumped. It was a low pump amg year. That was correct. It was really more of a fault of when we start the assembly of that and it was done before we had updated our numbers for that. We've correct that had with this bond prospect tus. It reflects all numbers not only for 2010, but 2011 in our forecast going forward.

Spelman: Okay. You were working off of projected numbers for 2010 and also the prospectus was issued after actual numbers were available, you did go back and corrected the actual numbers. Is that right?

That's right. Our typical projections are based on average weather and 2010 was a very rainy year. So our actual pumpage was lower than our projected pumpage, but that was what got into the prospectus for 2010. This has an updated set of numbers.

Spelman: But that's been corrected for this prospectus and we won't have that particular problem again.

That's correct.

Spelman: Okay. Thank you, sir.

Mayor Leffingwell: Councilmember morrison.

Morrison: I want to do just two additional questions on top of what councilmember spelman had asked. One is the issue about not having an agreement in place or at least not one that appears to be available with first southwest and your manager. And I don't know if this would be --

for corporate probably.

Morrison: Or whether we should expect to see an agreement between the city and management team for the bonds.

Yes required each time we do a transaction like this to sign a bond purchase agreement that they agree to purchase your bonds at the price indicated that we told you here in the prospectus as well.

Morrison: So is that available, that agreement?

Bob dransfield, is bob in here?

Mayor and members of the council, my name is bob dransfield. This is part of the parameter authorization, the delegated pricing officers authorized to enter into a pricing contract with whomever that might be. In this case first southwest is the senior manager. That would be the process you follow in these kinds of negotiated, delegated parameter negotiations.

Morrison: So we've already selected them to be the manager, but we have work to do to negotiate an agreement with them.

Effectively that's correct.

Morrison: Great. And then I guess the last question -- I'm not sure who this would be for, and that is in terms of the timing, there was a request for a postponement to have an opportunity to review the prospectus. Not that I would necessarily read 110 pages, but it would allow other folks to review it. Can you talk to me and give me your thoughts on what impact it might have to postpone this decision or at least partial -- I don't know if this would be possible because it sounds like some of it, the refunding and redoing of existing bonds, but the part about the new bonds that we would be looking at for the commercial paper. What would happen if we put that decision to next thursday?

If I could give you more than a short answer, I would like to. And I know that's what I always do and I'm sorry.

Morrison: You have a 3:00 deadline.

And I will hurry. [Laughter] first is a matter of course, council has done -- I couldn't count the number of parameters ordinances in the past. And the reason for doing a parameters ordinance, first of all, is -- I think the reason for the past (indiscernible) is that you literally have the parameters set in the policy and voted on in year's past says you have to do yada, yad yada. Your present value savings has to be x amount. And what that does for you, that doesn't allow the underwriters to go out or me to go out and sell your bonds at a rate since you can't sell these refunding bonds but one time. That's all the law allows you to do once you refund an issued bond. You want to sell them at a rate that allows you a

high savings level. Those parameters have been put in place by the council and we ask you to say okay, let's do that. Part of the reason we also ask you to let us do it at a time in the future is because the market has been -- volatile in the past. It's done like this. The municipal any market doesn't move like the mortgage market. But to have the volatility to say in the next two weeks or two months, we have to hit the market at the lowest. Also to your benefit that helps save you money. Now, we don't normally put it in your packet. It will put you to sleep. I am happy to put a draft in there before it's issued out and give you plenty of time to look at it and I'll certainly say my mea culpa for it not being there and i apolicy jooz. Did I answer your question?

Mayor Leffingwell: All in favor?

Tovo: I'm sorry, i still have a follow-up question. So I think the answer i heard is there's no measurable impact for delaying this a week? Is that right?

Mayor Leffingwell: That's not what I heard. I heard that he wants to be able to act at the appropriate time. When the market cycle to take advantage of the opportunity to have it in hand so to speak.

Tovo: I did hear that, but I also thought that was coupled with a suggestion that today or next week, doesn't make a --

our hope is to post the final pos, which is the preliminary official statement, next monday. That gives investors a week to look at that preliminary official statement, read it, ask any questions about it. And then go to market the following tuesday, which [inaudible].

Tovo: Okay. Thanks.

Mayor Leffingwell: All in favor say aye? Opposed say no. It passes on a --

Tovo: I'm abstaining.

Mayor Leffingwell: Passes on a vote of six to zero with councilmember tovo abstaining. Council, geel to item number 36. We'll have a presentation from a group of folks. I believe bruce todd, mayor bruce todd is the first speaker. Mayor todd, you want to cue up your video first? We do have a number of people signed up to speak. We'll begin with this. .. Permanently imprinted on the conscious of those who love this community.

Mayor butler and anne butler have given decades of selfless community service to the entire region of central texas. Everybody knows that they were very involved, and it's very deserving. And I think the community will be honored to have their name on the trail.

I think the trail is what gave an emphasis to downtown austin for its development. When you look around now you see all of the buildings that have been built here and what has happened to downtown. I think it's because of the trail, because it refocused people's attention on the downtown area. The trail at lady bird lake is so important to the austin community to realize how it all got started. And butlers working hand in hand with the johnsons, specifically lady bird, in bringing this trail to life and making it beautiful and sustainable, I think it's a great legacy to them to name the trail after them so that we actually know how it began and how it got to be so beautiful.

When we run we sometimes don't appreciate who came up with the idea. Who was the first person to think about how the community can come together, because the trail really brings the people together.

Because of roy and anne butler, all of us are in better health, all of us have greater happiness. All of us

have precious memories.

This is well maintained. [Inaudible]. It's exciting. People going back and forth. It makes you want to do more. Even if you're not actually a runner. It makes you want to get out and walk and bike and take your kids. It's --

today it provides so many benefits. The trail provides benefits of reaction. It's an environmental wonder. And also of course, now more important is the carbon impact. It's a transportation corridor.

If we didn't have the trail, butler trail at lady bird lake, austin would be out of shape within 12 months because if it wasn't convenient, you would start missing workouts on a daily basis and pretty soon you would be a weekend warrior and then pretty soon just giving up on it. So it's the difference between being in the city and the country and being just another city in the country.

And it's the right thing to do to say to those who gave birth to the trail a job well done. We want to celebrate your leadership and your devotion '.

The trail really is what the city is about.

Mayor Leffingwell: Mayor todd is the first speaker.

Thank you mayor and councilmembers. Glad to be here today. My name is bruce todd, former mayor of austin. I'm here on behalf of every living former mayor who all enthusiastically support the renaming of the hike and bike trail for anne butler and mayor roy butler. Former mayor gustavo garcia-spillar is in the audience -- mayor gus garcia is in the audience and will speak previously and former mayor and senator kirk watson wishes he could be here, but he is attending the funeral of mrs. pickle. The trail is what the city is all about. We want to thank anne and roy for all they did to bring it to life. Austinites are lucky to have the butlers and lady bird johnson in the right place at the right time. Their work for so many years ensure that we have a beautiful lake and trail in perpetuity. The austin city council appropriately renamed the johnson in 2007 and one of the family members is here in the audience. And now you are gracious and appropriately considering renaming the trail for butlers. Mayor leffingwell and I both lived here in austin and remember what it looked like. And I believe we have a picture to show you. In short it looked like a mess. In fact, mayor, I don't remember this being the worst of it. It's probably a kind view of what it was like because it was not in great shape.

Mayor Leffingwell: But it's in black and white.

Gotcha. Good point. Running water and all that. That's how it looked in austin in 1968 when I came to town, how it looked in 1973 when I became a city of austin department head and was able to sort of watch what was going on around the city much closer and the work that was being done by anne, by les gauge who is here today and the committee members who worked for this project. We're all unfortunate to enjoy it now because it's a world class trademark. A beautiful place enjoyed by thousands of central texans each year. And isn't that a great picture that I hope is showing on the screen as we speak. That's a good seal. That's not the lake, though. They set the stage for what austin and the trail foundation has been able to accomplish in the 40 years since they started. And they should be applauded for that effort. I'm here today to thank the sponsor of today's resolution, mayor leffingwell, and co-sponsors, mayor pro tem cole and councilmember spelman for bringing this deserved initiative to your agenda. And so much thanks goes out to the other councilmembers for their support, and i thank all of you for your public service and for your vote today. Thank you very much. [Applause]

Mayor Leffingwell: Now we have another mayor, mayor gus garcia. mayor, honorable councilmembers. I think mayor todd said i would speak briefly, so I'll stick to that. I first met mayor butler, mayor wonderful, in the late '60s when we were involved on school issues. And mayor butler had the distinction of making

-- making -- preparing the scene for the first minority members to be on the school board. You remember the first african-american, first minority member of the school board was mrs. wilhemina delco. And the president of the school board at the time was mayor butler. President butler at that time. Then in 1971 he was kind enough to leave the school board so that I could be considered for membership on that board, he actually left, but I didn't get appointed. I had to wait another year before I got to the school board. But when he came here he also was here to welcome the first african-american to occupy place 6, the honorable pearl hancock. So my experience with mayor butler has been one in which I have seen the manner in which he loves the people of this community. And this is another manifestation, the work he did on the trail. It's another manifestation of his love for the city. I always enjoyed watching him. I can't say that I was very close to him because i really wasn't, but he was always ready to help mayors who got into hot water, and I was no exception to that particular scenario. So I'm glad to be here because I had a great deal of respect for mayor butler butler, because they really love this city and they make sure that when they're needed, they're there for the city. So I'm glad to join mayor todd and all the friends that are here and family in saying it's time to give them that honor so that they can be right next to the lake that is named after lady bird because those two families worked together to bring us the trail. Thank you very much and i hope you get this approved today. Thank you.

Mayor Leffingwell: Thank you, mayor. Next speaker is kim taylor.

Thank you, mayor leffingwell and honorable councilmembers. I appreciate the opportunity to be here. I knew this was coming up and I've been following it and I really want to thank the mayor and mayor pro tem cole and councilmember spelman for sponsoring this. I think it's a great honor and I'll be very brief. I know you have other things to deal with today. But I came to austin 29 years ago and in the three decades that I've been here there's been a few families and a few people who have greatly influenced me and helped me to be a better person and to love this city more and more everyday. One of those was mayor butler and another one was anne butler. And I'm blessed to call three generations of that family my friends. I was blessed to know mayor butler and I'm blessed to work in austin and work across the street in fr what I hope to be the mayor roy butler and anne butler hike and bike trail in a few minutes. It's something I enjoy, my family enjoys and some day my grandchildren will enjoy. And I look forward to telling them who that trail was named after. So thank you for your vote. Thank you as always everyone for your public service. I appreciate it and I look forward to seeing y'all down on the butler hike and bike trail.

Mayor Leffingwell: Next speaker is susan rankin.

Thank you, mayor and councilmembers. I'm susan range in, executive member of the trail foundation. We support the trail's fish active to rename the trail for the butlers. Anne and roy butler working with lady bird johnson together had the vision and shapes the trail that we all love today. If it were not for them we would not be enjoying the beautiful hike and bike trail that we love and that really sustains us all so much. I think we all know that the trail really is the gem in the heart of austin and we think it's appropriate to rename it for roy and anne butler. Thank you.

Mayor Leffingwell: Next is miss lucy johnson. And miss johnson, i understand you made special arrangements to come here today and I know you didn't plan to speak at all, but i want to ask you to tell us about your mother's work and miss butler's work to make this -- the lake environments a better place.

Mayor leffingwell, members of the city council, our two former mayors, it is my great honor to be here and of course all the representatives on the city council. I didn't plan to be here today because I was going to be attending the funeral of beryl pickle, the widow of the extraordinary jake pickle who served this city so well for so many years. And who was a great friend of the butler family and a great friend of the trail. But I decided, because i think I got kind of a mets san jose, a nudge from heaven, -- a message, a nudge from heaven, from jake and mother and daddy, that the trail goes on for future generations. And the right thing for me to do is to say thank you, beryl for being so long suffering as a congressional wife all of those years, and this is one time you're not having to stand up for another

council meeting. This is one time that we're going to stand there beside the butlers and say a job well done. My mother has gotten a lot of the credit over the years for the concept of the lake and the trail. She was the first person to say the lake belongs to the town, not to me! But she did finally concede that many citizens of this town wanted to say thank you. And so you named the lake after her. I have absolutely no doubt i would -- I will not put words in my mother's mouth now as I dared not in her lifetime, but I have no doubt whatsoever that she would be the first person leading the parade to say that the trail needs to be named after roy and ann butler, ought to be named after roy and ann butler simply because it is the right thing to do. It exists because roy butler and his bride had the courage to stand up and help my mother in making a dream come true. And I hope we'll make this dream come true for them today. Thank you.

Mayor Leffingwell: Thank you, ms. johnson. Thank you. [Applause] also signing up in favor, but not wishing to speak are kristin martin, elizabeth christian, aaron ochoa, meredith mickelson and davis griffin. And I also see how there the trail foundation folks who are in support of this and paul corroza who we saw earlier. Thank you for coming here tonight. We do have two speakers who are signed up against. And the first one is clay da foe.

Good afternoon, ladies and gentlemen. First, let's give a round of applause to the butlers and all they've done for austin. We really appreciate them. Well, congratulate them myself, I guess. I believe in a city of one community and I believe that we are a society of equals. All too often we see naming rights used in a corporate fashion to erect monuments, usually to politicians and to promote corporate naming takeover of our public space. All too often we beautify past politicians and activists from decades ago with respect and deference, but often at the expense of the natural colloquial names which our beloved city's iconic places already have. From town lake to lady bird lake. From town lake trail to the butlers trail. What will be next? Will we rename congress avenue as rick perry street? I find it uncomfortable to address these items. boone pickens, when they recently renamed the downtown dallas ymca after, may have a word with me. Too much corporate political influence played with us as a game to rename our public places with overtly public figure names as in the case of the former late mayor butler is not the right decision. I truly appreciate all lady bird and the butlers have done for austin and for town lake beautification, but we must ask ourselves, is it really necessary to rename all well-known austin public places with the names of our recent past political figures? I think not. I strub instruct you to note no. Thanks.

Mayor Leffingwell: Next speaker is nicole thomas. Nicole thomas. Not in the chamber. So those are all the speakers that we have signed up wishing to speak. So with that, council, i will pass the chair to mayor pro tem cole for the purpose of making a motion.

Cole: Yes, mayor. I would like to say that earlier today I talked to mary arnold and sinclair black, some of the official record keepers of the city, and although we are here to recognize the contributions of ann and roy butler, they also informed me of the contributions of some additional individuals which were robert crenshaw, russell fish, roberta crenshaw, russell fish, les gauge and allen (indiscernible). [Applause] and I have to confess that when a certain individual by the name of bruce todd and susan rankin came and talked to me about renaming the lake, I said, well, I'm aware of the many contributions of our former mayor roy butler, and i appreciate the fact that y'all are considering this, but for the sake of history, I want to know if he planted anything over at the lake because I think we should just name it after ann. [Laughter] and they said, there's just no way she would agree to that. And I said well, ask one of her granddaughters. And so eventually I think it is just absolutely a credit to our history and a long marriage that we are naming this lake after both of them. So with that said, mayor, i will turn the podium back to you.

Mayor Leffingwell: Thank you, mayor pro tem. And first I want to ann butler here in the audience. [Applause] and I believe you have some of your family with you here. Would y'all stand up just a second so we can see the butler family? [Applause] thank you all. So it is with great pride that I make a motion to approve this resolution renaming the entire hike and bike trail surrounding lady bird lake to the ann

and roy butler hike and bike trail trail and waiving the applicable requirements of chapter 14-1 of the city code relating to this property.

Cole: Second.

Mayor Leffingwell: You're running this now.

Cole: All in favor say aye. Oh, councilmember morrison.

Morrison: Thank you. I just want to briefly repeat some of the comments that I had made at the work session. I really appreciate the work of the butlers and butler especially for serving this city, who hasn't basketball recognized as -- hasn't been recognized as yet. And I only got to meet mayor butler after when I was a new councilmember and I had a lovely chat with him and it meant the world to me what he said to me that night. On the other hand, what I'm concerned about with this motion, which is holding me back, I believe that the town lake hike and bike trail is such an essential element in defining the character of our city because it spans the whole city, because so many people use it and I was so interested to hear carroza on the video talking about what an essential element it is because it defines the fitness of so many people in the city. So it's because of that that I feel like it's so important that we have a public dialogue about this. That's why I'm concerned about waiving the standard process here and regretfully I won't be able to support this motion. But I do so, as I mentioned, with great respect to the butt letters. The butlers.

Tovo: Mayor pro tem, i wanted to say very briefly, I agree with the comment about public process and it is with great regret that i will not be able to support this motion. And I want to say that i have not had the opportunity butler or mayor butler, but I have really enjoyed over the last week learning more about their contribution, and it is extensive and significant and you deserve to be honored in a significant manner. So my staff has spent time over at the history center pulling articles and I've read and learned a great deal about the contribution that both individuals have made to our community. There is no doubt that the hike and bike trail is a great asset physically to the physical health of our community as well as the economic health and just a wonderful gathering place to our community and we owe awe debt of gratitude as well as the others who have created that as such a gem of our community. But it is a very significant provision of our code that we have a 90-day review process and the opportunity for extensive public comment before the naming of our public facilities. So those are the reasons that I will not be supporting it today. But again thank you for your contribution and your long service to the austin community.

Cole: Any other comments, colleagues? All in favor say aye? All those opposed? That would be councilmember tovo and councilmember morrison.

Mayor Leffingwell: Thank you, mayor pro tem. So that's approved on a vote of five-two. [Applause] councilmember martinez. Council, with that, we did not complete our executive session, so we need to go back into executive session. Without objection, the council will go into closed session to take up now two items, pursuant to section 071 of the government code, the city council will now consult with legal counsel regarding the item 48 to discuss legal issues related to austin firefighters association et al versus the city of austin et al and item 50, discuss legal issues relating to the byron carter senior et al verse the city of austin et al. If there's no objection to going into executive session on the items announced? Hearing no objection, the council will now go into executive session after a five-minute recess we will convene in the executive session room. [Rumbling] Announcer: What if a disaster strikes without warning? What if life as you know it has completely turned on its head? What if everything familiar becomes anything but? Before a disaster turns your family's world upside down, it's up to you to be ready. Get a kit. make a plan. be informed today. I-rr naiser grand view hills burleson burleson felter ribelin north ridge park we are out of closed session. In closed session we took up and discussed legal issues legal items related to 47 and 50. And before we go back to regular business I want to recognize - I think we have some folks here related to troop 5. Is troop 5 here? Oop. There they are. Okay. Stand

up so we can see you. I have to acknowledge that this is my old boy scout troop. I was a member of troop 5, methodist church. You guys are getting your merit badge qualifications? You can just nod. Welcome. I hope you have a great time while you're here and thanks for coming. [Applause]

morrison: mayor? council member morrison. I wanted to do a quick shout out too because both of my sons were in 5, and my husband was an assistant scout master for way too many years. This was probably at the same time you were in the troop, mayor. So anyway, it's great to see you guys here. it is kind of like old home week up here, isn't it? Anyway, glad to have you again. Thank you, council member. And the next thing is this morning we passed on the 19, which as it turns out had a couple of typographical errors in it in the month of october 2012. I believe you've been furnished with a revised copy, corrected copy of that. All it did was change the dates in october in two instances, to put the -- make it on a thursday instead of a wednesday. , Yeah. So I think what we need to do is have a motion to reconsider item 19 and then another motion to approve the revised item 19 councilman spelman moves to reconsider, councilman morrison seconds. Passes on a vote of 7-0. And now we have the revised 19, which is 2012 austin city council meeting dates. Council member spelman moves approval of the revised version, council member morrison seconds. Discussion, all in favor say aye.

Aye. opposed say no. That passes on a vote of 7-0. I believe that, guernsey, brings us to our zoning cases.

Thank you, mayor and council. Greg guernsey director of planning and development. 00 zoning neighborhood plan amendments. These are our public hearings. Are open, there's possible action taken and, mayor, i understand there may be one question you might want to ask before we go through. I think there's an individual that had signed up for several items but has been absent most of the day.

Is nicole thomas in the chamber is this nicole thomas. Nicole thomas is still not in the chamber, so I believe she is the only speaker signed up for items 58 and 59 and 65 and 67 and 68. So those items are eligible for consent agenda, since there are no speakers that are signed up that are here in the chamber.

Thank you, mayor and council. Let me then proceed to the consent agenda. The first item that I'll offer for consent were items no. Npa-2011-0015.01. This is for property on garden view lane. This is an amendment to the east mlk combined neighborhood area, zoning case is c14-2011-0086, for that same property and garden view lane, 6406. Staff is requesting a postponement of both of these items to your november -- excuse me, to your december 8 agenda. The commission has not yet considered these items. 58 is case c14-2011-0082, for the property located at 5702 1/2 jain lane. The related neighborhood plan amendment item is item 59, case npa-2011-0016.01. This is located in the govalle johnson terrace combined neighborhood planning area for that same property on jain lane. And this is also a request by staff for postponement to your december 8 meeting. 58 and 59. The plan commission hasn't yet considered these items. Items 60 and 61 are related. 60 is c14-2011-0083, off the property at 5200 bolm road, and 5509-5609. Relate 02 for the same properties on steward circle for the property in govalle. Staff recommended postponing items 60 and 61 to your december 8 agenda. Again, the planning commission has yet to review these cases on their agenda. 62 is case c14-2011-0102, for property located at 2907 1/2 delwau lane. This is to zone the property to np public zoning. The recommendation was to grant district zoning. This is ready for consent approval on all three readings. 63 is case c14-2011-0107 for the property at 7112 1/2 zachary drive, zone it to 2 p district zoning for public district zoning. Zoning and planning commission's recommendation was to grant and this is ready for consent on all three readings, 64 is c14-2011-0114 for the property located at 2906 1/2 delwau lane. This is zone the property to public or p district zoning. The zoning and platting commission recommendation was to grant the zoning. This is ready for consent on all three readings. 65 is c14-2011-0055, this is at 12052 tomanet trail. The applicant has requested postponement of this item to your december 15 agenda. 66 is case c14-2011-0092 for the properties located at 8901, 8903 and 8905 fm 969 road to zone the property to community commercial or gr district zoning. The zoning and platting commission's recommendation was to grant commercial conditional overlay or glco zoning with

conditions. And this is ready on all 67 is c14-2011-0063. For the property at manchaca road. Staff is requesting a postponement to december 8 agenda. The planning commission has yet to consider this particular item. Item 68 is case c14-2011-0097, for the property located in the 15000 north fm 1620 property to zone to gr district zoning. The planning commission recommendation was to grant community commercial conditional overlay or gr-co combined district zoning and this is ready for consent approval on all three readings. Item 69 is case c14-2011-0108 on wilson park avenue. This item has been withdrawn by the applicant. There is no action required on 69. Item 70, c14-2011-0110 for parmer lane property. Mayor, we have one citizen present that would like to speak in regards to this particular item, so I'll skip this item on your consent agenda, and then go 71, case c14-2011-0111 for the him property located at 12030 north lamar boulevard. Staff is requesting a postponement of this item to your december 8 agenda. The zoning and platting commission has yet to consider this item on their agenda. and 70, mr. guernsey?

Guernsey: pardon? item 70 was consent all three? 70 i think you have one speaker -- oh, excuse me, okay. That's discussion --

that's here that would like to speak to that item. all right. So the consent agenda is to postpone until december 8 items 56, 57, 58 and 59, 60 and 61, to close the public hearing and approve on all three readings items 62, 63, 64, to postpone item 65 until december 15, to close the public hearing and approve on all three readings items 66, zoning and platting commission recommendation, to postpone items 67 until december 8, close the public hearing and approve on all three readings item 68, zoning and platting commission recommendation, item 69 is withdrawn. And item 71, to postpone until december 8. Entertain a motion.

First question, if I may. council member spelman. we have a lot of items that have been removed from consent and postponement for several weeks because they haven't been heard by -- was there a technical problem?

No, if you recall, maybe two or three years ago my staff was trying to put both the commission and the council public hearing dates on the same notice. It was an effort to save money for the city, and it was an effort -- because we have a lot of neighborhood plan amendments there were a lot of notices that are put out, we send the notice out at the same time so people can kind of schedule in advance the dates. And in this case, if the commission postponed, then we have to come back to you and ask for postponement, but then it saves the cost of my department and the taxpayers sending out additional postage for those days.

So the commission have postponed these items on their own hook and that's why they won't look at until next week.

That's right. And we need the commission's recommendation before you can really take action under state law.

Spelman: thanks. Mayor, I move approval of the consent agenda. council member spelman moves approval of the consent agenda, second by council member morrison. Discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. thank you, mayor and council, that brings us back to item no. 70, Case c14-2011-0110. This is for property located at 5922 1/2 parmer lane. This is a property that's about 30 acres in size, and it's being proposed for rezoning to mf-4, the multifamily medium high density conditional overlay district zoning. The proposed use on the property is a multi-family development is currently undeveloped at this time. The property is located to the north and east and west are undeveloped. They're part of the robinson ranch properties and to the south are existing multi-family properties, or two existing apartment complexes. This tract is, like I said, currently

undeveloped, and the property owner wishes to construct multi-family dwellings. It's just near the intersection where the red line that goes up towards Leander, the Capital Metro line is right by Parmer Lane. The planning commission did recommend this case to you on a 5-1 vote to approve the staff's recommendation. Staff recommendation did limit the number of trips on the property to 2,000. That would mean that the property owner would be limited to no more than probably about 311 dwelling units on the property. At this time I'll pause. If you have any questions and Bury & Partners are the agents for this case. Questions for staff? The agent, you said there is no agent? Gerns the agent is --

the agent is Megan --

Megan Wanek? Wanek you have five minutes.

Good afternoon, Mayor and Council. I am here on behalf of the applicant for the zoning case. I don't have a whole lot to add except that we are proposing to zone a back piece of a property that is currently landlocked by a front piece of the property, zoned as part of a zoning with the Robinson Ranch along Parmer Li-PDA, to match that property's zoning and allow that piece of land to be used with a proposed multifamily development and I'm happy to answer any questions if there are any on this application. Questions for the applicant? Council member Spelman. Ma'am, I see that the front of the property on Legendary Drive is zoned Li-PDA.

That's correct. and you're asking to zone this multi-family.

That's correct. how do those work together?

The Li-PDA zoning was done with a swath of zoning on either side of Parmer Lane, and that zoning allows a lot of different uses. Multi-family is an included use in that area. Based on the uses, proposed use in the area and the adjacent multi-family uses, multi-family is something that the owner of the property would like to do. So multi-family is an allowed use with the Li-PDA and MF-4 matches the density allowed. So eventually what will happen is the back part of the property that's before us now will be included with the front end of the property and you'll have a combined development which will have more than 311 dwelling units on it.

That's correct. how much are you considering?

Right now there is a proposal for a 65-acre, approximately, subdivision. That subdivision will have somewhere in the range of 750 units proposed at this time. Over 65 acres. The property for the zoning is only -- is a much smaller portion than that. and you will not need to come back to us and getting a zoning for the Li-PDA section?

That's correct.

Spelman: okay. Thanks. all right. We'll go to speakers. There are no more speakers signed up in favor, so we'll go to those signed up against. Robert Bone? Robert Bone is signed up against. And you have three minutes.

Thank you, Council, an owner of property adjacent to the property in question. My name is Robert Bone. I'm with the firm of Hoover Slow Vek. We represent the Stone Oak Ranch Investment Corp. Our concern with this proposed zoning change is we believe it a bit disingenuous to apply for the zoning change while at the same time stating that a traffic study should not be required because they anticipate 2,000 or less trips per day from this property. If you're to do the math and if you're to take into account Bury & Partners' statement that they plan on putting 765 or something like that units, it doesn't make sense to also state in your application that you anticipate 2,000 or less car trips a day. 65 Acres given a zoning change that will allow between 36 to 64 -- excuse me, 36 to 54 units being placed per acre, even after

accounting for diminishing factors such as accounting for parking and that sort of thing, it does not make sense for the applicant, the developer, to state that 2,000 or less car trips per day will occur. This is a safety issue. We're not -- my client is not concerned about competition. My client is concerned about safety. In other words, how can they say that a development that will call for 765 units somehow still only come up 5 car trips a day per unit? It doesn't make sense. We're imploring the council to decline approving this ordinance until the developer does -- excuse me, a traffic study. They have stated in their application that 2,000 or less car trips a day will occur in order to gain a waiver of the requirement to perform a traffic study. We think that's putting the -- I think the cart before the horse. Have them perform their traffic study first. Make sure that people aren't being put in danger on this very busy street already, parmer lane, with one point of ingress and egress into the property, that being legendary, I believe, a very busy street, adding three -- excuse me, between -- let's say between 500 to 760 units is going to cause more than 2,000 trips a day. That being the case, they should be required before obtaining this zoning change -- they should be required to do the traffic study first, and that would be our opposition to this proposal. all right. Thank you.

Thank you. Questi questi ons? You have three minutes for rebuttal on that.

Thank you. To speak to the point about the tia and the proposed development, first I'd like to remind everyone that the proposed zoning is for 30 acres. In that 30 acres we are proposing less than 2,000 trips. That 30 acres is not going to be the whole of the development of 750 units, plus or minus. There is a subdivision application in review with staff. Typically speaking a tia is required during the subdivision application, at which time we would come in with a tract of land and a proposed use. If it is not required at that time it is required during the site plan stage. We do intend, if it's required during either the subdivision or site plan application, to perform a tia to guarantee that no adverse impact to legendary drive will be had with the proposed development. That isn't something we are not trying to get away with doing or request a waiver, but it is not required at the time for the zoning case for 30 acres. Questi questi ons? Council member spelman. let me be sure i understand. Currently this is zoned interim rural residential.

That's correct. you can't put an apartment building on rural residential. You need a rezoning to If 4 or li-pda or something else for this to be eligible for putting multi-family housing on.

That's correct. the section, you're going to put this section is not going to have enough units to justify by itself the tia.

Correct. 311 units times whatever is going to be less than 2,000 vehicle trips per day so that's no problem. But because it's going to be combined with a larger section to the south on legendary drive, you're going to have 650 units and well in advance of 2,000 vehicle trips per day.

Uh-huh. when you apply for the subdivision permit, are you going to apply for the entire property?

The subdivision application has been submitted for 65 acres and a tia was not required with that application. However, the client has -- our client has requested us to do one -- to look into that, but it was not required at subdivision, and the site plan application is to be submitted shortly. If it's required at that time we'd obviously provide that to staff for their review.

Spelman: okay. guernsey a question, if I could. Thank you, ma'am. guernsey, are you going to require these guys to do a tia?

If they bring in that whole acreage and they have more than the number of trips that would trigger the 2,000, yes. It would come at the time of site plan. That's when we would actually have the appropriate count. If the zoning is actually approved with the condition of this back portion could still not exceed the 2,000 trip limit, and so no matter how it's configured you wouldn't be able to get more than 311 units, or generate more trips, I should say, on this piece that's being rezoned today. let me ask you a

hypothetical. Say we had 311 on the back section as required by the zoning and platting commission's recommendation, and say we had 311 units, not 400 odd but 300 up in the front and that wouldn't go to the 2,000 either. Is there any way they could avoid a tie --

I don't see how you could because when you bring in the site plan we're looking at the total area of that tract, and so between those two you'd end up with 4,000 trips and it would trigger a traffic impact analysis at that time. Is there a -- well, presumably they could break it into two sections and do -- put in two site plans, one for the front and one for the back. They could, but each of those site plans would have to stand on their own. They would have some probable issues of having to build two ponds for de retention, our water quality systems unless the property is draining in different directions. So the property owner -- it becomes a little more expensive because the design submitting to split site plans and each site plan would have to stand on their own. One of these site plans would be landlocked and the only access point appears to be through the front one, so you wouldn't be able to -- it seems to me it would be difficult to submit a site plan for a landlocked lot.

There may be an issue. That would be addressed at the time of site plan. There's also a possibility additional land could be acquired from the Robinson Ranch, that could be connected at a later date if this property owner decided not to go pursue development of the property, that it could actually connect to land to the north or to the west, which also adjoin this property. If I wanted to be sure that -- I believe -- Bury's agent here, they're going to submit a site plan at some point. If I wanted to be -- if I wanted to ensure that when these two lots are developed with a -- with multi-family dwellings, that a traffic impact analysis was conducted, is there anything I could do right now to ensure that?

I might think about that with my law department. I mean, I guess you would make a condition that a traffic impact analysis could be required at the site plan stage. We don't have the -- maybe the documents that might be prepared to do that. But you could do first reading today. We could talk about that and perhaps even bring it back next week for final consideration with either an instrument that would do that or at least something that could address that.

Council member, I do think that's something we'd want to bring back. I don't think that's something we want to attempt today.

Spelman: okay. But that would be a proper motion for first reading, would it not?

Yes, and then we could go forward, and if you'd like we could -- I think we could probably actually -- it wouldn't be that difficult to draft something like that and bring it back next week. Mayor, I'd like to make that motion, if I could, to close the public hearing and to approve the zoning and platting commission recommendation with the additional condition that a traffic impact analysis be done at site plan stage. Motion by council member Spelman to close the public hearing, approve on first reading only with the additional condition, and we don't have a meeting next week. It would be the next week or -- we do? Okay. Is there a second? Council member Morrison. Discussion? All in favor say aye.

Aye.

Mayor Leffingwell: aye. Opposed say no. Passes on a vote of 7-0. Thank you, Mayor and Council. That concludes our zoning map amendments today. And 00 public hearings and possible actions, but just before we do, I want to mention you may have noticed that we have not done the second 30 briefing on the Austin Resource Recovery Master Plan, and the director had to leave town this afternoon so we'll postpone that -- this item for another day. Without objection. Item 72?

Good afternoon, Mayor and Council. My name is Virginia Collier from the Planning and Development Review Department. This is the first of two public hearings for the following three full-purpose annexation areas, items 72, 73 and 74. The second hearing will be next Thursday, November 10 here at 4:00 p.m. Council will not be taking action on these items at either of these hearings and do read readings are

tentatively scheduled for december 8. I'll briefly describe each area. However, upon full-purpose annexation the city will provide full municipal services to each of the areas, including services currently provided by other entities such as the county. Copies of the service plans for each of these areas are available this evening. There's copies I left out front by the agendas and there's also -- also posted them on the city web page and anyone who is unable to attend I could send a copy of the service plan. So in compliance with statutory requirements each service plan includes three components, first being the early action program, which includes services that will be provided in the area effective on the day of annexation, including those services provided at the same level as comparable areas of the city such as police and fire protection, emergency medical service, solid waste collection, as well as operation and maintenance of infrastructure, such as water and wastewater facilities, roads and streets, street lighting and maintenance of public parks and playgrounds. The second section of the service plan includes additional services, which are those not required by state law but are provided stad-wid as watershedprotectientview, use o city lilh anhuman services antilitter services. And then finally there's a capital improvement section in the service plan which would include information about any capital improvements necessary to provide municipal services in the area. 72 the burleson-felter area, this includes approximately 97 acres located in travis county south of burleson road approximately 1100 feet west of the intersection of BURLESON ROAD and McKinney falls parkway. This area includes two tracts of land currently in adjacent to the city's full purpose jurisdiction on the north side. Development in the area includes mixed commercial and industrial uses as well as vacant land. The vacant tract of land, which is approximately 13 acres is cucially appraised for agricultural use for ad valorem tax purposes and for this reason in lieu of annexation at this time the property owner has option to enter into a development agreement with the city that would ensure status while the property continues to be use for ag purposes. As part of such agreement upon filing application to move forward with development of the property, any restriction on city annexation expires and becomes unenforceable. So I'll bring this development agreement forward for council approval at the same time as we bring forward the annexation ordinance for the remainder of the area. As I mentioned, upon full-purpose annexation the city will provide services to the area described in the service plan and I'd be happy to answer any questions you have on item 72. Questi questi ons for staff? We have one speaker signed up, john felter, signed up against. Welcome. You have three minutes.

Brenda hardin called me last night, had a family automobile accident down in florida and she had doing down there. She asked me to come down and put it in the words that she said. This was developed almost 31 years ago. This is the felter main section of it, and with no help from the city, it was awld developed by us, we put in our streets, we put in our sewer, we put in our water and our streetlights, and she feels like she's perfectly happy being in the county. She doesn't feel like the city annexation would offer us anything, period, and that was -- that was the content of her first statement. Anything that I could add to that, calling it a full annexation is sort of ridiculous because they've already said that there are four things that we will not be able to have, streets, sewer, water and electric. The city will not do any of the maintenance on that whatsoever. So if -- if we're not going to be allowed to have that, which would probably be the only service we might be able to enjoy, then I would suggest that we would be allowed a deduction from any taxes for those items from you all's budget. [Inaudible] in your budget. Thank you very much. thank you. Anyone else wishing to speak? That's all the speakers that I have signed up. Council member martinez moves to close the public hearing, second by council member riley.

Spelman: mayor? council member spelman.

Spelman: mr. collier? It was my understanding when we annexed property within a certain length of time we had to provide full municipal services. Is that not the case for this tract?

That is correct. we're going to provide them with full municipal services.

That's right.

So the what the woman was quoting might not be the full story.

Burleson is a full -- felter lane is not a public road. So it goes down into industrial buildings and it's very wide, and that might be what they're referring to, but I can follow up and find out more about the question. so far as you can tell it's a private road, not a public road.

Right. and we would not have an obligation to offer maintenance of it.

It's not something the county currently maintains, right.

Spelman: gotcha. If you could check that out for us I'd appreciate it. and there's no action on this tonight. So all in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. 73 is the ribelin ranch preserve area, includes 546 acres located in travis county north of fm 2222, 900 feet north of the intersection of 2222 and McNEIL DRIVE. This area is currently in the city's limited purpose jurisdiction and adjacent to the city's full purpose jurisdiction on the north and west sides. This area includes the remaining portion of ribelin consisting of undeveloped land, and the owner's request. The city will provide full municipal services to the area as described in the service plan, copies of which are available today and this concludes the staff presentation for item 73. Questions of staff? Public hearing only, no action required. We do have one person signed up to speak, rose farmer from travis county. Welcome, rose. Signed up neutral.

Thank you. Good afternoon, mayor and council members. I'm rose farmer. I'm program manager for natural resources for travis county. We are the owners of this tract. My question is, the entirety of the property is within the balcones canyonlands preserve. There are no additional services needed that we know of that would be provided by this, so my question to you and staff is, why are you proposing to annex this property at this time? Also, I have other questions, which are how would annexation affect the preserve land? How would it benefit the preserve land? And are there the properties that are surrounding the preserve -- there are preserve property surrounding this, are they also already annexed and why or why not?

Mayor leffingwell: okay. So is there someone from staff who can answer any or all of these questions? I think the first one would be why are we doing this?

I believe I can respond to that question. The area was initially annexed for limited purpose in accordance with the owner's request in 2004, and it's part of that request, we deferred conversion to full purpose and this is the last piece that they've requested to convert to full purpose and it was a time certain. It was the end of this year is when they had requested conversion to full purpose. So it's just in accordance with the plan that was adopted at the time we annexed. so it's just part of a larger package?

Right. and this is for a public hearing only. Additional public hearing will be scheduled.

Yes. maybe we could have someone prepared to answer the questions then about the effects that it would have on balcones preserve. I don't know of any but i think we need to address it. So those are all the speakers that we have signed up to speak, and I'll entertain a motion to close the public hearing. Council member spelman moves to close the public hearing, second by mayor pro tem cole. Discussion? All in favor say aye.

Aye.

Mayor Ieffingwell: aye. Opposed say no. Passes on a vote of 7-0.

Brings us to item 74, the northridge park section 2 area. This includes approximately 97 acres and it's located in Travis County at the northeast corner of the intersection of Manor Road and Old Manor Road. This area is currently in the city's extraterritorial jurisdiction surrounded by the full purpose jurisdiction. Development includes 16 existing duplexes and 92 individual family or duplex lots, as well as vacant land. The city will provide full municipal services upon annexation. Copies are available today and this concludes my staff presentation for item 74. Questions of staff? There are no citizens signed up to speak for this public hearing. I'll entertain a motion to close the public hearing. Mayor, I move to close the public hearing but I have a question, Collier, before we take a vote. Council member Spelman moves to close the public hearing. Is there a second? Second by Mayor Pro Tem Cole. And Council member Spelman. I notice this property is very close to LBJ High School and is very close to a lot of properties that I have always thought as being part of the city of Austin but I'm surprised to find it hasn't been annexed yet.

We found the plat was approved in 1986. Other sections of the subdivision were annexed in 1979 so it's just a timing. This is the last piece of it to be platted and developed recently, in 2007. So it's kind of the last piece to fill in. We were just waiting for somebody to plat and develop it and now that they've done it it makes sense to annex it?

Correct. Thank you, ma'am. Discuss discussion? All in favor say aye.

Aye.

Mayor Ieffingwell: aye. Opposed say no. Passes on a vote of 7-0. Brings us to item 75.

Hello, Mayor and Council, Greg Guernsey, Planning and Development Department, 75 is to conduct a public hearing and consider an ordinance amending City Code Sections 25-1-364 and 25-2-921 to authorize temporary pop-up retail in the central business district and downtown mixed use zoning districts. This was made by Council back in July of this year as an attempt to basically allow certain redevelopment of the downtown area without going through the rigors of a formal use change to convert a space downtown. We have -- especially during the holiday season, we have spaces where there are vacant tenant spaces that could possibly be rented for different uses, for whatever reason. -- For whatever reason the property owner has executed a release to have a tenant for several months but there may be someone that might be willing to go in during the holiday season or for short periods of time when we might have events that might occur downtown, to lease a space that is suitable for retail. It might be for one month, two months, it might be for three months. This ordinance would allow that in our central business district and our downtown mixed use district. It would -- since it's not a permanent use change, the occupancy of whatever the original tenant that was in that space would remain the same, although they would get what's called a temporary use permit. We would check issues of fire, safety. We would also check issues of parking, making sure the zoning is appropriate for that structure. Through this process we would make sure that it does not require a structural change to buildings and we're moving walls within the structure of building, permanent walls within the structure, that the building already has a certificate of occupancy or temporary certificate of occupancy so we know that basically the building itself is safe and those might be just a portion of the building itself, that it may not exceed 12,000 square feet of space unless it has an approved sprinkler system, and most of these buildings already meet that standard, but it's there to make sure that safety issues are addressed. Certain activities would not be permitted in the temporary pop-up use. These are ones that usually involve food preparation or alcohol because they involve separate permitting and other requirements, whether it be going beyond the city ordinances -- that would be going beyond the city ordinances. Having portable toilets that would be either placed inside or outside of the structure, that there is no storage of hazardous materials on the property, and then personal services, not a retail use but a personal service use, would actually be prohibited because there are certain additional permits required when there's water involved, whether it's like a hair salon or maybe a nail salon or something along that

line. There is a provision that you can actually get an extension of this use for two additional times, so you could go possibly out for this temporary use for one one-fourth of the year. You could do basically three months of this, but it's not necessarily limited to those times. They could come in at a different time during the year when there might be an event that would be occurring downtown, so they might do something in the summer and something that's during the holiday season if they wanted to. So it brings a little bit of flexibility, probably a lot more opportunity for startup small businesses. We're not aware of any opposition, and we offer it for your consideration tonight. It's ready for all three readings. thank you. We have one speaker signed up. Are there any questions of staff? Charles betz is signed up for. Welcome. You have three minutes.

Thank you, mayor and council members. The daa has worked very closely with city staff, and we appreciate it. We think this change in the code will be very helpful in getting some pop-up stores along the avenue and downtown, particularly during the christmas holidays. We think it will be very helpful. I would ask possibly -- i think the staff recommended 30 days with two extensions. Our preference would be a 45 day permit with one 45-day extension, which would -- would be a little more helpful. all right.

We very much appreciate -- excuse me. Go ahead. council member tovo has a question for you, unless you have something else.

That would be our only request other -- that would differ at all from the staff recommendation.

Mayor leffingwell: okay. Council member? -- I thought i heard you say two 45 day periods rather than three 30-day periods, so it amounts to # 0 days.

Yes. help me understand why that's more beneficial.

It just gives the pop-up shops sometimes want a little longer time. It just simply gives more flexibility in leasing those spots. but you think it's viable to lease some for more than a month?

I'm sorry. guernsey will talk about this. I was assuming it was in 30-day chunks because that's a typical lease but you think it would work just as well to have 45 --

we think it would work a little bit better.

Tovo: to just have two.

And I don't think -- i don't think it's a big sticking point, but I'll let -- thank you charlie. I think staff was looking at 30 days. We can have the flexibility of three times instead of just two times during the year. Staff, I think if council desires to do -- limit it to only two times during the year for 45 days, I think we would be fine with that. I think a lot of our processes we do are 30 days and I think it would give it maybe a little bit more flexibility to having three versus two events, and it gets to the same amount of time. But I think the ordinance, if council desires to change it, we would be okay for doing two at 45 rather than three at -- three events of 30 during the year. so greg, can you do that tonight? Could it be approved on all three readings and make that change?

Sure, I think the direction -- the ordinance -- that would be a pretty simple change. I'd want them to nod their head yes, law, to -- but yes, we can do that if you desire. were you finished, council member? I'm sorry.

Tovo: I think so, yes. I guess I don't -- I'm still struggling to understand why it would be better for businesses to have two opportunities rather than three, but if you tell me it is based on your stakeholders then --

it would just take one less renewal.

Tovo: okay. Thank you. That's reasonable. Thanks.

Thank you. all right. So those are all the speakers that we have, so it's ready for all three readings. I'll entertain discussion or a motion on that. mayor, I move to close the public hearing and adopt this ordinance on all three readings with the amendment that in section -- part 3 sect subsection f 4 be revised to read a properly for temporary retail may be issued for up to 45 days and renewed once for a operating period not to exceed 90 days.

Tovo: I'll second that. motion by council member spelman, close the public hearing, all three readings, with the change noted, and I know that the city attorney got that message. He's made pen and ink directions, and second by council member tovo. Is there any further discussion? All in favor say aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0.

Thank you, mayor and council. 76 is conduct a public hearing and consider an ordinance amending chapters 25-1, 25-2 of the city code to modify requirements for open space. Staff is requesting a postponement of this item to the december 8 agenda. We're working through the affordability impact statement, and I need to have an audience with the city manager before this item can move forward for council consideration, so we ask that this be postponed to your december 8 agenda, if that's all right. so staff requests to postpone 76 until december 8. Is there a motion to that effect? Council member martinez.

Morrison: mayor? council member morrison, are you second or -- I'll second with a question.

Mayor leffingwell: okay. previously i know that I had indicated that november 10 was a problem meeting for me that I wasn't going to be here, but my plans have change and I just want to throw that out, that if november 10 is better for you, that that certainly is -- I would -- I'm withdrawing any request to avoid that meeting. right now i think we've told our stakeholders that we've been working with that we probably asked for the 8th. I don't w rough he will any feathers and that would give us time to consider whatever may come in before that time. that sounds great. And I apologize for any trouble I may have caused with the changes.

Mayor leffingwell: okay. Motion and second to postpone till december 8. Discussion, all in favor, say aye?

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0.

Thank you, mayor and council. so that leaves us with item 77. A number of folks signed up to speak. We will not get through this item before our break for live music and proclamations, so I would -- we can start it. We can take a few speakers or postpone the whole thing. What is your -- well, I'm getting -- all right. We'll go ahead. We've got about ten minutes. So we will start the public hearing. First speake ann teach. Ann teach is signed up against. I'm sure you'll elaborate on that. You have three minutes.

Good afternoon, mayor leffingwell and council members. My name is ann teach, and I'm really not against the downtown austin plan except for a few provisions that deal with the [inaudible] zoning and permit density bonus. I'm connected to several homeless service providers and also to my faith community, and the need for affordable housing for low income austin residents and some of our homeless neighbors for permanent supportive housing is acute. Statistics gathered by the community homeless coalition tell us there are approximately 3,000 homeless individuals in austin/travis county. Add to that the number of individuals and the families who have to live outside the austin city limits in order to afford apartments, duplexes and houses, whether renting or buying, or if they live within the city

limits they have to live double and sometimes tripled up with family members and friends. I know you know the need for affordable housing is great and you as our city leaders can provide a tool for increasing affordable housing. That tool is a permanent density bonus ordinance in the downtown city plan. It includes eliminating the cure zoning for downtown landowners asking for increases in height and density. A permanent density bonus would provide millions to create workforce housing. Some of you may hesitate to eliminate cure and adopt density bonus ordinance because you may feel it deters downtown landowners and developers from building downtown. When I hear -- well, some developers may say that they can't afford to pay extra for greater height or density and that what they build downtown would add more to the tax base and that would benefit everyone. Some developers may say that they would not build downtown unless they're not required to pay extra for more height and more density, and when I hear that kind of reasoning I have several responses. Building in downtown Austin should benefit all Austinites, not just those who reap the rewards of renting or selling -- selling living or business space downtown, because the infrastructure that supports buildings in downtown Austin was paid for by Austinites through the taxes they paid and continue to pay. Many of those Austinites don't or can't live downtown because it's not affordable to live downtown. If they could live downtown they would also contribute to the tax base. Many Austinite staff downtown businesses and they have to travel from outlying areas to work downtown and that increases traffic congestion and gas costs for them. If landowner and developers in downtown Austin are only concerned about maximizing the money they will make off their buildings and businesses for themselves and their investors, then I submit it would be good to remember that their success is built on a foundation provided by the people who build those buildings, clean those buildings, serve the people who live in those buildings and who work in those buildings. I also don't think landowners would be deterred from building in downtown Austin if they're charged for greater height and density. They will ultimately reap more than enough return for their investment. I urge you as city leaders to keep the common good of all Austinites in mind when you make decisions about the density bonus and I urge you to adopt a permanent density bonus -- excuse me, density bonus ordinance and to eliminate the cure zone in the plan. Thank you.

Scott Sayers? And donating time is Julie Sayers. Is Julie in the chamber? Okay. So you have six minutes, signed up against.

Thank you, Mayor, and good evening Council members. I'm Scott Sayers, president of the West Downtown Alliance. There's a -- I think there's a map being loaded in here. Various members of our neighborhood association have problems with different issues to the downtown Austin plan, but specifically I want to talk about the so-called panhandle portion of the northwest district. The panhandle is an area bounded by Rio Grande on the west, San Antonio on the east, 15th Street to the south and MLK to the north. It's my input from stakeholders in this area for the last year, the area remains part of the northwest district rather than the uptown capital corridor -- this uptown capital corridor inclusion would make far more sense. We received more than 3,000 pages of open records documents regarding this part of the plan and it's clear that the lobbying from Judges Hill Homeowners Association began a few years ago and has influenced the boundaries. And let me say on the record we respect Judges Hill, the historical nature of the neighborhood and it has remained somewhat residential, mostly residential and historic over the years. However, their association is trying to affect an area not within their boundaries, which is principally commercial, has less than a handful of properties that are historic, and is not in the capital view corridor. For some reason planners keep referring to the nature of the panhandle area as historic residential. This area has been principally commercial for many years. The city is using outdated drive-by surveys taken in 1984 to classify many old houses as historic just because they're more than 50 years old. Most of these in the area have questionable historic value, no significant architectural traits and fewer residential any longer. Many have been altered to conversion to commercial use. In 1973 the Austin School Board voted to move Austin High, which is just outside the panhandle area, and I quote the reason, this is a quote from their meeting, the area is becoming too commercial in nature. Well, that trend was strong then, it has expanded and continued to this day. City staff gave consideration to the topographical changes between Judges Hill and the panhandle. If you stand on Pearl Street you can't even see over the houses on West Avenue, and it would be virtually impossible for a 120-foot building on new view. Unfortunately in the last year in some cases planning commission and even council has chosen to begin letting a proposed downtown Austin plan affect

zoning decisions in our area. In other words, a plan that wasn't yet adopted was unofficially given overriding influence in several zoning cases. Since 2004 properties in the panhandle have seen their tax valuations rise by more than 65%. As an example my property was valued at 261,000 in 2004 and 435,000 in 2010. Given past potential that could be considered fair, but now with limitations doesn't -- height limitations doesn't seem right. When raising taxes that are assumptions made by the appraisal district that not in being in the capital view panel handle, and now it's limiting height to create a buffer for our neighbors to the west. The panhandle, which should be a natural progression for future downtown growth is being burdened with restrictions and so-called opportunities sites downplayed. The fact is no artificial buffer is needed. Because of the natural topography market conditions should be allowed to dictate the height of future projects to at least match the 120-foot approvals that have been granted by planning commission and council in recent years. If truly historic buildings were a considerable, it will be one thing, but to preserve 80-year-old tract houses with no architectural integrity, is simply intruding on the values of owners expected otherwise from buying their property. We have expressed our concerns in three public meetings with [inaudible] representatives and yet never received a request to visit our area and tour our streets. It's one thing to look at a map in an office setting but something completely different to actually tour an area to understand its character and topography. Unless we are moved to the uptown capital corridor i certainly expect to be down here in a couple of years as an attempt is made to make us a historic district and include the panhandle in the historic district with judges hill. I urge you to amendment the dap, move the panhandle area into the uptown capital corridor, which is far more in keeping with the characteristics. Again, this is boundaries would be from the east side of rio grande, through san antonio and from 15th street to mlk. Thanks for your time and consideration. thank you. 30 and we have to -- without objection, council, recess, for live music and proclamations. We anticipate coming back at 30 to resume this public hearing. Resume resume

it's that time again for live music at city council meeting. It's my privilege to introduce to you god-des & she. Joining us is of course god-des & she and she play to packed venues all over the world, from new york to sweden. Their energy and talent have caught the attention of industry and listeners alike. Ever since they appeared on show time's hit series the l word. The pair haven't had a moment's rest since holding 1 spot on mtv logo with their song, love you better. Performing with lady gaga and hip hot salt and pepper and signing autographs for eager fans. New album produced by brian hargrove, confirms their status as an underground act to hit the mainstream. I hear there's a big fan club that's here tonight. [Cheering] so will you all join me in welcoming god-des & she. [Applause]

hello. How are you all doing? Can I get some more vocals, please? He's going to start the other monitor when you start the tract.

Can you guys hear me okay out there? I am god des and this is the lovely she. We've been austin natives for about two years and we're so happy to get this day, it's a great honor, so here it is. But I bought a home so I'm here to stay, just so you all know. That's right. [Singing] [Music playing] [Applause]

we want to do a really long show for you guys but that's not the deal today. We had to choose one song. We hope you all liked it. Thank you very much.

That was great. So do you guys have a web site that we can go to, check out --

sure enough do. Now, our name is a big confusing because it has a hyphen in it. So everybody get ready. G-o-d hyphen d-e-s a-n-d .com.

I'm god des and this is she.

So where can we go check you out? Watch your full show?

We're actually playing november 5, this saturday, at the l style g style party at the w hotel. We'll be

playing there that evening. We're playing in dallas on november 11. We tour all over the world so you can go to our web site and see when we're performing.

We're playing canada on thanksgiving day.

I'll be at the I style g style. I'll be there presenting proclamations at the I style g style presenting proclamations. Where can we buy your music?

The web site, it's like one-stop shopping.

I want to present you guys -- you ladies with a proclamation that reads, be it known that whereas the local music community makes many contributions toward the development of austin's social, economic and cultural diversity, and whereas the dedicated efforts of artists further austin's status as the live music capital of the world. Now, therefore, I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim november 3, 2011 as god-des & she day in austin, texas. [Cheers and applause]

thank you. it's my pleasure tonight to say a few words and issue a proclamation commemorating the new season at the lyric opera. As many of you know, lyric opera has made a great contribution to the city of austin, performances at the long center, and I have to say at this point that I've been privileged to be in several of those operas. To be honest, I did not actually have a singing role,. [Laughter] but I did get to get on stage and it was a lot of fun and I'm really grateful for that opportunity. And there are, of course, a lot of people who work very hard and give a lot of their time and effort to making the opera a success here in austin and a couple of those are here with me today. So I'll give them the opportunity to say something if they want to after I read this proclamation, as the austin lyric opera was founded in may 1986 as austin's first professional opera company and rapidly became a touch stone for the fine arts community in the central texas region, and whereas, the four seasons group opened its door, austin hotel, in december 1986 and became a favored destination with elegant surroundings for those who know and appreciate the best, and whereas, renowned lyric opera principal conductor richard buckley will lead an orchestra and chorus of the finest local musicians and a cast of internationally acclaimed singers in the opening of the 25th anniversary season with mozart's delightful the magic flute, and whereas, four seasons austin led by general manager robert hegleberg is the opera's silver anniversary partner and cordially opens its doors to opera patrons for exceptional events this season. Now, therefore, I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim november 5, 2011 as opening of the austin lyric opera's 25th anniversary season in austin. So congratulations to both of you.

Thank you so much.

And joann, would you like to say a word about the opera?

Just a few. just a few, okay. As many as you like.

When we started 25 years ago it was a great adventure, it's been a great adventure, so we hope to be here for another 25. Thank you. [Applause]

rob? mayor, thank you very much. We're as well delighted to have been a member of the austin community for the last 25 years, and I can confidently say we'll be around for another 25, and look forward to our partnership with the opera and man other civic and philanthropic organizations throughout the city. I'm proud to be part of four seasons and the austin community. Thank you. thank you, rob. [Applause] we're now here to honor adela fitness olympia, and I have a certificate of congratulations to present to her, and you can see the medals that she just won about a month and a half ago, september 16, she said, and my gosh, that looks heavy, doesn't it? So you -- it's a good thing you've been working out so that you can carry those medals around with you. I bet you wear them everywhere, don't you? Everywhere. Okay. So a certificate of congratulations as the winner of four

fitness international titles and a record-breaking six olympia crowns, adela garcia is deserving of public acclaim and recognition. garcia's accomplishments during her 16 year career in the competitive fitness arena have made her an icon in the sport of body building. Besides competing in major contests, she has trained others for competition and promotes her sport. She is a personal trainer, trains other competitors and encourages all who attend her classes to live a healthy lifestyle. As a city which aspires to be the fittest city in the united states, we are very pleased to recognize garcia's accomplishments and wish her continued success, and that's presented this 3rd day of november in the year 2011, and signed by myself with the names of all council members. Congratulations, and we appreciate what you do. Thank you very much. [Applause] what makes our urban neighborhoods great places to live is in small part determined by the services provided by the city and the county and the state and the federal government. What really makes them great places to live are the services we provide to each other. I'm delighted to provide this award to an a woman who exemplifies all the best in our neighborhood, florence ponziano. I hear there are people here to speak on your behalf. overton, do you want to go first?

Good afternoon. I would like to thank the city for recognizing my friend florence. I just want to say a few words about florence. Florence has been living in our community for years. Her work that she does in that community is her life. She is a dedicated person. She does so much for that community. She instills work in that community to all ages, from small children to senior citizens. She's been a dear friend of mine for many, many years. I met her years ago and i must say that florence is a person who gives and gives and gives. It is really hard to do anything for florence without her giving it away to somebody else. And I know that from experiences of trying to do something for florence, and you think you're doing it for florence and you find out florence has given what you have given her away to someone he is. She's a loving and very deserving person of this award. Thank you for honoring her. [Applause]

I just can't emphasize enough what florence does for the community. She just gives from her heart and whenever I have questions about am I doing the right thing, well, i just say, am I doing what florence would do. And I wish I could measure up to that. I'm not going to take the whole three minutes. [Applause] I am pleased to give this certificate to florence ponziano in recognition of 20 years of putting others before herself to the benefit of especially the children and young people in the montopolis neighborhood. ponziano has worked hard to instill a sense of love, personal responsibility in the hearts and minds of children who may not receive it at home. She feeds those who are hungry and gives homes to them. She has worked with churches and others to provide clothing, school supplies, christmas presents and even college scholarships for the less fortunate in her neighborhood. Some call her the mother teresa of montopolis. We're pleased to recognize her personal sacrifice and to extend our appreciation for her efforts on behalf of austinites through this certificate presented the 3rd day of november, 2011 on behalf of the city council of austin, texas and the mayor, lee leffingwell. Thank you for all you do. As master of ceremonies, proprietor, owner of florence's comfort house. [Applause]

I want to thank everybody that made my dreams possible. All the people that worked with me so hard, austin urban league, acc college, duncan hall, youth work, keep austin beautiful, there's so many people I can thank because they love my kids and they know they deserve a chance, they know they need to have every chance every other kid in austin has, and I work because I love all my kids in the neighborhood. I love them and I want them to have every chance everybody else gets, and that's all I can say, thank you and bless you all. [Applause] florence sent me an email just today asking were donating blankets and food and all kinds of things. She never stops working. Thank you for everything you do, florence, for montopolis and for austin. Next, if we can bring up mr. gonzalez and his family.

Folks, I want to welcome gonzalez and his family and it's an honor to recognize him for his almost three decades of service to citizens of austin. This was brought to us by another good friend of mine from south austin, he considers himself the mayor of south awz, moses saldana, who is serving on the safety commission. I want to give this that was gonzalez saldana say a few words. It reads, manuel charles gonzalez is diserveg of public acclaim and recognition. He was born in round rock, the 8th of 11 children of margaret and juan gonzalez. He worked with his family as a migrant worker in michigan and oklahoma in his teenage years, then went on to serve our country in the army. After a brief stint in the

brick laying profession, gonzalez got a job with the city of austin where he worked for 28 years. He is perhaps best known, however, for providing musical enjoyment to austinites through his group, whose original members were manuel and his talented children. We're pleased to acknowledge manuel gonzalez for his positive impact on our community through his career, church and musical endeavors with this certificate presented this 3rd day of november in the year 2011. So we congratulate gonzalez and his family, we thank them for their decades of service to the citizens of austin. [Applause] I want to welcome up moises saldana.

Thank you, council member martinez. As you mentioned, I'm supposed to be a part-time mayor of south austin, but I'm just here to recognize my good friend manuel gonzalez, for all the good things he's done, for his music and his family together, they are second to none and god gave them that very talented gift that he made a lot of people happy, including [inaudible]. It's his birthday, the gonzalez family performed for one of the local clubs in south austin, of course, and we really appreciate, you know, all the dedication he's done, his music means a lot, especially the mariachi music. Again, it's [inaudible] music that's on worldwide, and like austin in particular, they have such a fine gentleman and such a great family who's also again very talented and sincerely appreciates this award given to him by the city of austin, and may god bless all of you all. Thanks. [Applause]

Riley: The cool thing that happened this past year is those two defining as speghts of our character got married. We saw the emergence of the south by southwest eco conference for the first time this year, a hugely successful event, over a thousand participants over a three-day period. So it's my great pleasure to have the opportunity to present a proclamation in recognition of this important event and to look forward to its continuation next year. We're lucky to have with us scott wilcox, who was instrumental in presenting the conference. I'll go ahead and present him with this proclamation be it known that whereas last month marked the initial south by southwest eco conference that drew more than 1,000 registrants and addressed the need for a concerted cross sector approach to solving sustainability and environmental challenges. And whereas south by southwest eco offers an alternative traditional conferences by providing top thinkers space to develop new solutions, form new alliance and reinvent the current workforce on sustainable living. Whereas planning for 2012 expands the conference to a full three days of panel programming and introduces a two-day trade show. And whereas special events highlighting austin's unique contributions to its sustainable urban landscape along with the touch of film and live music, with add the south by southwest brand of creativity to this endeavor next year. Now therefore i, lee leffingwell, mayor of the city of austin, texas, do here by proclaim october 3rd through fifth 2012 as the south by southwest eco conference here in austin. And it's signed with the official seal by our mayor. I'm so proud to be able to present this to scott and be able to present it for the award.

Thank you, councilmember riley. South by southwest is really excited to add south by southwest eco conference to our family of events. We are planning on south by southwest eco 2012 november 3rd through the fifth and we'll add a two day trade show to that. Essentially we feel like this is a good fit for austin in terms of ethos and attitudes of the community. Like our other events, this conference is geared toward professionals to really try to increase and advance the dialogue on sustainable solutions. So we're really looking forward to being part of austin events in the fall and to extending the south by southwest brand in to this really important area that we care so much about. So thank you. [Applause]

Mayor Leffingwell: We're out of recess and will resume the public hearing on item 77. Next speaker is susan harris. Donating time is john harris. Phyllis warner is here. You have up to six minutes.

Mayor, good evening, council. I'm susan harris. I operate my business, sight solutions, in a property i own on west 18th street in the area referred to as the panhandle of the northwest district of downtown. The panhandle as scottie described is that area between west 15th and mlk, san antonio and rio grande streets. The creation of the downtown austin plan has been an interesting academic exercise resulting in a report that as it relates to the panhandle anyway is somewhat flawed. The overarching flaw is the very inclusion of the panhandle in the northwest district. Since the early 60's the panhandle has become a vibrant commercial district populated by a variety of professional, secular, multi-family, retail and

commercial uses. As a result all but two parcels in the panhandle include some form of commercial zoning. Additionally there's a 60 to 70-foot elevation change between Judge's Hill and the panhandle. This natural topography negates the need for artificial buffers to a district which is two blocks away and which incidentally is an area of downtown not subject to any use or height restrictions, although it is part of the city. Earlier -- bottom line, the panhandle has more in common with its neighboring uptown district to the east, which good planning would have made it a part of. Defining the panhandle as residential in character and establishing development constraints designed to discourage dense residential and commercial development there is truly a planning error. Earlier this week I had the pleasure of hearing the city manager and staff present the draft of the comprehensive plan. The growth concept map identifies downtown as a regional center and defines regional centers as a major urban hub having the highest employment. And residential densities being highly walkable, supportive of a bicycle and high capacity transit and providing a full range of employment opportunities. Dense, vibrant downtown is a key objective of downtown with downtown being an area that includes that panhandle. To meet the transportation goals and incremental tax base objectives, the comprehensive plan calls for greater mixed use density in the panhandle area. The panhandle area in fact is smack dab in the middle of the downtown hub identified in this comprehensive plan. The comprehensive plan also recognized that this north end of downtown is the link and acknowledges that increased market demand resulting from the city's continued growth and success can be satisfied with dense development in the area. The panhandle is the only area of downtown that is unencumbered by capital view corridors, businesses and poised to provide further growth of the downtown tax base. When you accept and pass the plan in its current form you will shut off any substantive transformation of this area and face a conflict when the comprehensive plan is put before you for approval. Please direct staff to reconsider their decision and incorporate the panhandle into the uptown capital district of the city and let market forces further densify this area over the next 30 years. Thank you.

Mayor Leffingwell: Thank you. Next speaker is Tom Walt. Tom Walt is not here. Clay Dafoe. Signed up against.

Thanks for giving me some time. I was just giving testimony at the charter revision committee. If you hold one second I'm going to run back and get my notes. Thank you, council. Now, we're talking about downtown Austin plan, which I was speaking about earlier in citizens communication. Your concerns are that some local and iconic businesses are being priced out, that downtown as well as the region's center for live music is in danger of redevelopment. Downtown Austin's historic fabric is at risk of being demolished. I'm afraid that plan puts these concerns into real play. Let's look at the elements. 1, adopt form based development centers to protect the buildings, streets and districts. Yes, we need to protect our historic areas, but I believe form based development standards is highly flawed. Each area is different. If you were to do form based development standards for high-rises, what we've seen recently with the mass subsidies given away to big hotels, high-rise buildings, we'll have a mess at downtown and there won't be much historic buildings left. Next, 1.4. Change the cocktail lounge from a permitted use to a conditional use. Too many cocktail lounges, city staff cries. All in hopes of changing the sixth street bars from permitted use to conditional use. Permits as if we were entering a new era of 1920's style prohibition. This is a big mistake. City council should not be deciding which bars can and cannot be open on sixth street, which businesses can or cannot run there. That's something for the free market to decide, not the government. Also in the elements, affordable housing is repeatedly mentioned. It's a greater attempt to grow the government housing projects on the guise of this do-gooderism for another project we don't need. Even the creation of the new cultural facilities and live music venues are suggested by the city. The Austin music scene has thrived because of the lack of government control. And not because the government is good at creating music venues or cocktail lounges that showcase live music. So it's really the economy, not the government that's brought the great music scene to Austin. I also oppose the opportunity development sites idea that is basically through the Waller Creek tunnel project, turning Waterloo Park into what's been termed the San Antonio Riverwalk. This corporate pay to play project we don't need. Same thing is happening with Shoal Creek. We look at Duncan Park, one of my favorites in Austin over next to Lamar Boulevard. These development opportunity sites are public parks which are meant for the people and I will not let them be turned into

something for the corporate interests. Thanks. Vote no.

Mayor Leffingwell: Mary ingall. Donating time is joyce (indiscernible). You have up to six minutes.

Good evening. My name is mary ingall and I'm here as a newly recruited member of the austin neighborhoods council executive committee. I would like to speak about two items connected with the downtown plan of the preservation of the judges' hill neighborhood, a small jewel within our central city. These two items are limits on cure surrounding and abutting judges' hill district. Number two, the importance of holding the public processes and the input generated from these processes. First of all, let me talk about limiting cure around the boundaries of the judges' hill district. There will be tall buildings nearby, however, if we take and let them from an organization across mlk to the organization, the heights of the building in uno step down dramatically to the existing embedded neighborhoods. This type of stepping down enables historic preservation and the mere existence of older neighborhoods as well as provides the dramatic proximity of amenities that downtown has to offer. This is good planning because it's compatible and respectful. In accordance with the defined purpose of the cure -- of a cure combining district which is to promote the stability of neighborhoods in the central urban area, other central city neighborhoods have and will experience more dense developments. If we do this in a sustainable way, a thoughtful, respectful way of stepping down heights towards single-family, then the old and the new can exist in harmony. This is so important. Cure is not needed here just for pro forma economic reasons. Secondly, the future of judges' hill is a viable -- as a viable, liveable neighborhood depends on the carefully crafted planning which the consultants and the staff did along with stakeholders. By adding cure abutting this neighborhood's borders at the last minute, this not only puts an unwarranted pressure on the mere existence of historic and older homes, but it flies in the face of upholding the integrity of the public stakeholder process which took place. The public process, a transparent process, is one of the building blocks for trust of city government and ultimately for trust in the future of our city. It should be respected. Please support the staff and the planning commission recommendation which would limit cure and height bonuses abutting this district. Please for the sake of all our neighborhoods and for a well crafted downtown that all of us will be proud of. That is why we plan and this is why we participate in a transparent process. Thank you.

Mayor Leffingwell: Thank you. And nicole thomas. She's not been here all day. Mark seggar. Jewel share. Jewel is not here. Steven alaman? Not here. Charlie betts.

Mayor leffingwell, mayor pro tem cole and members of the council, I'm charles betts with the downtown austin alliance. We're delighted to be here at this point in time with the downtown austin plan. And we are very, very supportive of the overall plan. We support it, we thank this plan -- we think this plan will help our entire community by building more dense tax base. We think it will help in many, many ways. It will give us opportunities for place making and we think it will enhance the value and vitality of our entire city. The issue that has gotten the most attention is the density bonus plan. We are very supportive of the staff recommendation that you recently received and we hope that you will take a close look at that. We think it will -- it will give the council and it will give developers a way to appeal to the council for achieving additional height and density along with a new requirement of an applicant's to be able to demonstrate to what extent they have complied with the density bonus provisions. This compromise recommendation provides a method that along with hopefully we can make the density bonus a little more attractive to developers and that most developers would choose this as the preferred route. But it does provide a safety valve for projects that are not able for economic reasons to meet all of the requirements of the density bonus. Of course, our real concern is we don't want to inadvertently encourage projects to build within their development rights. Instead, if it's economically feasible and productive for them to build more and build more buildings and more tax base for all the citizens. We have heard your -- watched and heard your deliberations day before yesterday at the work session, and we heard the idea of capturing some of the tax increment produced by that additional f.a.r. Granted. To go to additional community benefit such as affordable housing. This would -- this has the possibility, we think, of being a win-win situation. Number one, it would eliminate the distance in building density in our downtown. And number two, at the same time it could provide a long-term predictable stream of funding -- [buzzer sounds] -- for affordable housing or other community benefits. There are 100 or so

recommendations in the downtown plan. We certainly will have an issue with a few, but we really encourage the council to plan in its entirety. Thank you.

Mayor Leffingwell: Thank you. Linda team? You have three minutes.

Good evening, mayor and mayor pro tem, councilmembers. My name is Linda Team and I'm here tonight representing the Heritage Society of Austin and I'll read a letter from that organization. The Heritage Society of Austin would like to offer our comments on the historic preservation components of the downtown plan. What a long way we have come since the first draft of the plan, which did not mention historic preservation. The Heritage Society is very pleased that this final draft being considered includes an overall goal to preserve and enhance the unique historical and cultural heritage of downtown. The Heritage Society has held the position that the growth and densification of downtown is positive for preservation, contribute to go a sense of place and creating viable options for a sense of use for historic buildings. We feel optimistic about the continued appeal of our downtown and believe that suburban development cannot compete with downtown's special qualities, including its natural setting, historic and cultural resources and diverse mix of local and regional differences. We commend the plan for including recommendations to preserve what is authentically and uniquely Austin. The plan recognizes that historic preservation is a key factor in preserving downtown's unique sense of place. And is integral with our sustainability. We support the recommendations aimed at downtown Austin's historic fabric, including especially updating Austin's preservation plan and the cultural resources surveyed to essential planning steps that are long overdue for us in our preservation work. We also encourage and support the establishment of design standards to ensure new development respects the scale and character of historic buildings, districts and landscapes, and increased city funding, staffing and expertise dedicated to preservation. Our remaining comments to the density bonus component of the plan. The Heritage Society supports the following protections for downtown historic resources. The Warehouse District. The utilization of the transfers of development rights, tdr's as proposed would preserve the buildings while allowing the property owners to realize the development value of their properties. We urge consideration (indiscernible) for the development of city owned and operated tdr bank first focusing on the development rights -- [buzzer sounds] that's the end.

Mayor Leffingwell: Good timing. [Laughter]

well, it wasn't really, but I think I can stop there anyway.

Mayor Leffingwell: Thank you. Charles Betts signed up again. Diana Zuniga. You have three minutes.

Good evening, mayor and council. I am Diana Zuniga and I am one of the owners of property at 213 West Fourth Street. The property is zoned CBD and is outside the Capital Corridor. Excuse me, I have allergies. The property is in the block on Fourth Street bounded by Lavaca to the west and Colorado to the east. This one block area is called the Core Preservation District in the Downtown Austin Plan. Among the recommendations in the plan is a 45-foot height limitation for properties in the Core District. There are nine of us in this district that have been singled out to be the Core. We have attended many, many meetings. The last couple of years we've written emails as property owners and stakeholders protesting this height limitation. Most of the owners in the Core zone are against it and feel as if we are not being treated fairly. Other property owners in the Warehouse area will not have to conform to a 45-foot height restriction and there by the value of their property will be enhanced while ours will be diminished. Well, we have no immediate plans to change the use of our property or redevelop our property. The imposition of an arbitrary 45-foot height limitation is a considerable impingement on our development rights. A Core transfer of development rights will not compensate us for our unused development rights as there is no proven market for tdr. A more immediate concern is the impact of a height limitation on our current tenant's ability to install a covered rooftop deck in the future. We therefore ask that you remove the height limitation from the plan. [One moment, please, for change in captioners]

so in short, there is a lot of the downtown plan that I like, and I encourage you to adopt it with a caveat

that there not be arbitrary warehouse -- height limitations in the warehouse district, that the cure zoning be maintained and that flexibility be built into the plan. And thank you so much for your time and for serving our city so well. three questions before you. So the plan would limit to you 45 feet on your property.

Yes. what's the height limit right now?

It's zoned cbd. It's unlimited. so it would -- that would constitute -- your opposition would constitute a valid position [inaudible]

yes, sir. [Inaud [inaud ible]

guernsey: mayor? council member morrison. I guess this is a question for our legal department. Since we're not actually doing any zoning, we don't have any valid petition; is that right? It's more of a concept? yeah, we will have [inaudible].

Thank you. kathy ecle? You can -- you just don't have anything to add? Okay. Thank you. Jay tafan? Donating time is mark seager is here, betsy christian. Betsy christian here? I don't see her. George christian? Jeffrey harper? So you have up to nine minutes.

Thank you, and good evening, mayor, mayor pro tem and council members. I've got a little bit of a powerpoint presentation here to remind me what to say, and there are a few pictures from a model we put together to make this clearer. This first slide is just a reminder that the district goals that were outlined included for this area the northwest district, preservation of history and tree canopy, and bringing residents back to the area, and so that's where we started with stakeholder input and consultants and staff here. This is something early in that process I came up, which is a section requested by the group of commercial property owners in this panhandle, it's an eight block area, it's only two blocks wide. This section goes from pearl street, which makes it pretty irrelevant for compatibility because, in fact, there are three single-family homes on each side in that four-block area of west avenue, which is a block and a half beyond, so I mention it because it's still on the web site of the west downtown alliance. It would sound to be an erroneous document was quickly withdrawn from the plan. But the good news is the staff provided an accurate look at this with an overhead view, which is here. So this is the area -- my experience is the pointer doesn't work well but basically the yellow area is single-family and within zone a, the northern part of that is the only part we're talk about, above 15 feet. A is over 15th street so there are single-family homes on both sides of west avenue and then you've got these stepped up zones of compatibility, which replace traditional compatibility and are less restrictive. The good news for people who have objected like warner, is they're in a hatched zone. That dotted red line is where compatibility used to apply before the changes and the attached zone is places that are supposed to be removed from compatibility requirements, so both of their properties are within that hatched zone, they won't be subject to compatibility. In addition to having their far doubled from 1 to 2 and having their heights with the density raised, a 50% increase. We've also removed the single-family use trigger for compatibility which made it unpredictable for developers so we thought that was a reasonable request. These are the density bonuses. When you add this to the compatibility zones you see in half lot increments as you move west from the single-family homes on west avenue, you go immediately to 60 feet with a few carve-outs for the compatibility zone if it's right next to a single-family home, you go 60 feet, 70, 90 and 120. So it's a pretty fast step up and I'll show you a picture of what that looks like. This is an overhead of a 3d model of the area and it's a little hard to see but there's an 8 block area in the middle, has a rectangle around it and what I've done is put in the tallest building you could do in the density bonus. The really tall buildings to the right you'll see as we tilt it down are in the uptown capital district. We don't think it's appropriate to put the panhandle into that district because two blocks wide immediately adjacent to single-family homes would be way too close for 400 feet, which is taller than the hilton or the four seasons. So above that, top of that slide you see uno is 190 feet within one block of single-family homes and the rail lines will come into this area creating more development pressure. If you put too much of height on that, it will be too much. There's another way to look at that

from the sides, that's the eight block area, two blocks from east-west and just four across, where that step up happens. We think that two block area is narrow, not too wide. This is a view from west avenue where you see the single-family homes of the small structures in front and it immediately steps up in that first half block of their backyard to 60 feet and then 70, 90, 100 and 120 before hitting the 400-foot towers. Again, it's like a bunch of [inaudible] stacked up. To the left along mlk you'll see 200-foot structures. So for people living there, they're not happy with this, two feet is too much but this is what we're willing to support. As long as we can work in what happens with cure as well, that's the other thing we're objecting to, one, if you raise heights beyond what we've already agreed to in a long stakeholder process where we were told, okay, if you do this, this makes it better for developers with a new compatibility zone, then we will give you this protection, which is only a little looser than compatibility and doesn't go to far. This is traditional view. Looking at 16th and west, so the tan brick structures are historic homes already lan locked, and that's what's -- frankly I wouldn't want to live there, but that's what we're willing to support. The buildings going up, again, that first group of buildings at 60 feet is going to be in the backyard of the house is going to be four stories, it will be five stories by the end of that block and then much taller beyond. These are a couple pictures of rainy street. This is where we don't want to [inaudible] by having two buildings that are too tall, too close, because they could destroy the neighborhood. This is an example of such a home that was destroyed before. We've got a great history on the [inaudible] those houses a judges hill. There's a plaque and -- parking lot next to condos there and we don't want that to happen again. This is the national registered district sayers referred to, and the plan suggests and number two suggests is in the middle of the 8 block area, most of the [inaudible] judged by staff and consultants to be appropriate for national register district. It's true that the survey of the home was not complete in 1984 but we've done our own survey as -- part of forming a local historic district. hancock house built by a black entrepreneur in 1986 and preserved from [inaudible] to be destroyed on west avenue jad to the home of [inaudible] howard and we've got a three-page list of the history of the place. For all of these old houses, these are from bolt sides of rio grande, again, houses from the 1800s, very valuable houses, long histories on these, and so there is real history there. It's true, there are only three landmarks in the eight block area. That worries us more. We need to have these others protected with the historic district but we're not making this up. The oldest houses are in the AREA, THE 1800S TO 1850s, And this is one on the east side of rio grande, and so the contention that there's not history there is just not so. The good news about cure is I just heard before the meeting from jim robertson that their recommendation has been clarified. It was pretty vague. In fact, they're recommending you not have cure as an alternative in areas that are not eligible for density bonuses. Makes perfect sense, intuitive sense, but my fear is when you say it's a saf valve, what we know experches is cure is really, it's a loophole, it's an end run, and [inaudible] not used at all. Never have been, we fear they won't be. That's taking it out of those areas not eligible for density bonus helps a lot. The other thing we want you to clarify, we think cure doesn't make sense once you have a thorough urban plan but if you do take it out we feel it should not allow people to go for heights beyond what the density bonuses will be, if you make it [inaudible] zones that step up in the northwest panhandle, if you say you can use cure instead of density bonus pathway, but the cap is currently 120 on a density bonuses, it should stay 120. Because those were the plans we worked out when we accepted a deal to accept a less restricted compatibility in the area and thereby foster density. The good news is that will make less expensive buildings. The tall four towers that were approved two weeks ago in the [inaudible], their average unit price is over a million dollars. You can [inaudible] with a slightly smawltter in a 60, 70-foot zone and there will be places people can't afford in pourings of downtown along with the great skyscrapers we love as part of our skyline. This is -- I know you got an email today and I was asked to comment on it, by one of the staff -- one of your aids, actually. This is a block that st. martin's owns. They chose not to be part of the process so they were aware of it. They have a lot of people in their congregation and we're working with them. But, in fact, the block they're concerned about density doan you see, single-family directly, much of their land is single-family, the other is go. They were concerned about missing out on cure. It's an area where density bonuses have never been granted to go in excess of three, so I think it's a red hairing, but the good news is they have -- herring -- red news, they have a less restricted compatibility in that area than they have now. They also have all of the new uses that everyone gets by upgrading from go to [inaudible]. So they're worried about missing out on rights because they haven't been a part of the process, but, in fact, they won't be missing rights. Thank you. thank you. Next speaker is richard blownt. Donating time is tim finley and jason perkowits.

Jason burkeo wits. So you have six minutes.

I have something.

Pass it down.

Mayor and members of council, my name is richard blownts as as you may remember from the october 6 council meeting I own property on 4th street in the what is known as the [inaudible]. I am here to represent myself and the owners of five other parcels. I urge the council to eliminate the 45-foot height limit of the core warehouse district [inaudible]. [Inaudible] a 45-foot height limit is clearly a down zoning of our property and it will take away an entitlement that property owners [inaudible] in investing in this area. [Inaudible] our property values without [inaudible] and it will limit our ability to respond to changing economic [inaudible]. City staff, members who prepared the plan [inaudible] the stakeholders feel that a 45-foot height limit is necessary to preserve the neighborhood. After the october 6 council meeting I asked staff who the stakeholders were and received the response, well, [inaudible]. It is interesting that owners were not mentioned. [Inaudible] the owners who supported this [inaudible]. Over the past several days i conducted a survey of the owners and you have in the packets that I've distributed to you the results of that survey. There are nine parcels in the [inaudible] district, and owners representing 86% of the properties opposed to 45-foot height [inaudible]. One owner didn't have an opinion one way or the other and one owner I could not reach. So it could be higher than 86%. In the letters [inaudible] the letters. The property owners expressing their opposition. I would like to read the letters from richard durrell, who only learned about this aspect of the [inaudible] several days ago. November 2, 2011 to the austin city council. Downtown -- regarding the downtown [inaudible] plan [inaudible] street quarter. I was shocked to learned just yesterday that downtown austin property owners [inaudible] which I have owned and paid almost \$800,000 in property taxes over the last 30 years may be restricted to a height limitation of 25 feet while adjoining properties will have no such limitations. I own 17,664 square feet of land, 14,288 [inaudible] building at the southwest corner of 4th and colorado street. It is my understanding that this proposed height restriction is limited to the 4th street corridor between colorado and lavaca. This will have a devastating effect on the value of a small number of property owners, while allowing our neighbors to continue to be able to develop their properties to their highest and best value. I cannot imagine a more unfair situation. I've lived and worked in austin for more than 40 years and I am disappointed to think that the city council would even consider passing an ordinance that would deprive property owners of the right if they choose to develop their property under fair and equitable guidelines. This is basically a condemnation of the property without recourse [inaudible]. This can only lead to legal action if only a small number of property owners [inaudible]. It is ironic that while city council is limiting the future use of my property, the central appraisal district just this year increased the valuation and left the taxes at 87%, arguing that it is underdeveloped and must be valued based on its highest and best use [inaudible] highrise development. It seems that the right hand and left hand of [inaudible] government does not know what the other is doing. It is no wonder that citizens have lost confidence in the regulatory process. I am absolutely opposed to any proposed ordinance [inaudible] a few property owners for punishment for no apparent reasons. My company consisted of a dilapidated auto repair business. [Inaudible] although i support the [inaudible] historical structures, building on my property have no aesthetic appeal and no historical property. [Inaudible] tenants will be shocked to learn they are renting properties [inaudible] historical significance. I hope that council members realize what a financial disaster this will be for the property owners along the short quarter, and that reason will prevail. Sincerely, richard durrell. I urge you to eliminate the [inaudible] height restriction that applies to [inaudible]. Steven alaman, you were called a couple of minutes ago. You have three minutes. mayor, mayor pro tem council. I appreciate this accommodation I was across the hallway at the charter provision committee making a statement there. I'm steven alaman president of the austin neighborhood council. I want to speak on this item, specifically to the [inaudible] issue, and you probably have heard a lot about the substance of cure and density bonuses. I'm going to leave that more to the housing experts and such. The reason I want to speak to it is more about process. And this is where the [inaudible] interests lies. My understanding of the way that this has played out, and I hate to characterize it this way, but almost to the effect of a bait and switch. Neighborhoods were engaged in the process as stakeholders. City staff consultants had many meetings. Neighborhoods came to

consensus over a plan, and then at the last minute things are changed. This is not the way to engage community members because we all know time is precious, attention can be devoted to family, to work. We undermine our confidence in our local government when this type of process is utilized. So in terms of austin neighborhoods council and groups, we want to assure that if there are engagement with neighborhoods, which we're going to presume they're in good faith, that a consensus with neighborhoods that's reached will be honored. Of course we understand that nothing is perhaps set in stone till we get here at council. That's sometimes for the better, for the worse for neighborhoods. We understand that's part of the process, but in terms of going through this lengthy process to make this kind of last-minute change really undermines the neighborhood engagement procedures that the neighborhood -- downtown austin plan envisioned, called for, executed but now, unfortunately, really shortchanges. Thank you for your consideration and respecting what neighborhoods agreed to in the process with regard to the downtown austin plan.

Hagan micenboc? You have three minutes.

Thank you, mayor and council. Currently, according to the 5 million square feet of commercial space in downtown austin, and if all the zoning was maximized it would be 23 million square feet of commercial space in downtown. With the dap plan, that will triple or quadruple according to the consultants. So we're looking at a mind-boggling number of 100 million additional square feet -- not additional but potential square feet in downtown austin. We feel that that's plenty, and perhaps more than the infrastructure can handle. The current proposal, balances goals of density, compatibility, tree canopy and historic preservation and [inaudible] recognize the public stakeholder input [inaudible] and location of our small area [inaudible] in the extreme northwest corner of downtown, with its irreplaceable assets of early american history and old growth tree canopies. Please honor the expertise, the consultants and the staff and the public process you have set in motion here and approve the dap plan now. And we would like to support staff's recommendation that cure be limited to the density bonus zone if it remains in dap at all. And then I would like to acknowledge the thousands of hours of [inaudible] who [inaudible] that he's invested in this process along with hundreds of hours of me and other members of our neighborhood over multiple years, and thank you so much for your service. thank you. Frank herrin? Welcome. You have three minutes.

Mayor, mayor pro tem, council, thank you for listening tonight. Like many of the speakers i support a lot of the plan. I think the problem is that -- the same problem I've watched in connection with the comprehensive plan generally. When you look at the plan in the real world, with real world market limitations and such, it just doesn't -- the plan does not really support densification. It does not really support environmentalism, affordability, mass transit or sustainability. The whole conversation over the density bonus and over cure zoning is supposed to address affordability. Many of your staff were at a luncheon today that cnu sponsored and we had -- i think he's the deputy mayor and chair of the planning commission of philadelphia, and after his talk I asked him to please address the issue of affordability, and he said, there were no easy answers but the first specific thing he said was that we tried to mandate affordability on new development. And in his words, it didn't work. So they've abandoned it. So the only kind of place it does work is a place like new york, where the median incomes and the price of real estate are well above what we want to see here in austin. The math on the downtown plan I think has yet to be examined. Under all existing entitlements that are in place today, the staff estimates that we could build out 33 million square feet of additional space. If you assume that that's half residential and that everything else fits within that other half, and if you assume that over the 30 years that's addressed by the plan we could build out half of the theoretical maximum additional space and you give each person living downtown 500 square feet, you're only allowing for 14,000 more people to live downtown. That's it. And I haven't seen an estimate of how much more square feet or how many fewer square feet would be built under the downtown plan proposal as compared to that 33 million. I think you'll need to run the numbers. I think we're not accommodating the growth in population that we're going to see over 30 years, and we're going to continue to sprawl. This plan still uses the ror area 1 floor area ratio that's inappropriate in a major downtown area. We cannot continue to let a few single-family homes or a single tree dictate what gets built in the core of downtown austin. thank you.

Roy whaley? You have three minutes.

Howdy you all. My name is roy whaley. I'm the vice chairman of the austin sierra club, and i also attended the same conference that frank did and came away with a slightly different takeaway. But I do want to say that the sierra club is very in favor of downtown density. The reason the sierra club nationwide looks at density as a positive is because it is a tool to reduce [inaudible]. And fortunately we can have both here in austin, because we do not have hard boundaries that will limit the sprawl. We do not have something that will prevent people from ever moving out. What we have will be the tools that you will use to make austin so appealing and affordable that people will not want to move out of austin. Mandating it can be difficult, and we can only do it in the areas where the city controls the property, i.e. waller creek. We should be looking at waller creek and putting in high levels of affordability there. We should be looking at opportunities with the pure casting facilities over there and help them move away from that, get away from zam bal a elementary that's outside of the area under discussion, but nonetheless, these are where we have to take advantage of these opportunities. While we are in favor of the density, it doesn't solve everything, and it is interesting, frank's math about it only adding 14,000 people and if we are to continue growing the way we are, that's a drop in the bucket. But speaking of drops in the bucket, we're going to outstrip our water resources to allow this growth anyway. What we need to do is step outside the downtown plan and look at all water use and all areas of new growth and get very serious about water conservation. Nonetheless, to come back to the topic, we would like to see the cure -- well, I'm always going to talk about water, mr. mayor. I see you grinning over there. You know I'm always going to go to water. I don't think we're going to get there with the way this plan is drawn now. We need to drop cure. We need to focus very seriously on affordability. We have to reduce sprawl by making austin irresistible and affordable. Thank you so much for walking in tightrope. It is a tough one and i appreciate your efforts on this as I appreciate the efforts from all the folks, even the ones I disagree with. thank you. Richard gerratti? Richard has three minutes.

Mayor, council members, my name is richard gerratti and we own property in several areas of downtown and I think overall the plan cures a lot of problems. I have a couple suggestions. Most everything I would have said has already been covered by other speakers, scott sayers and susan harris. In the northwest panhandle i would strongly suggest that those properties that receive gmu, please eliminate the setback restrictions because on very small properties it's a killer. Vmu was designed to not have setback ricks, so I'd appreciate your consideration restrictions. The other thing is on the process involved, the judges neighborhood association has made it clear tonight that they were involved in this process for some four years and the property owners that are directly affected in the northwest panhandle were not, and I don't know how the communication error occurred, but I hope that does not occur again because we felt like we were left completely out of the planning process. Thank you. thank you. Karen fox?

Mayor, mayor pro tem, council members, my name is karen pauls, and I -- there are a number of things in the downtown plans that are very useful, helpful in terms of affordability. There are even some things that I consider to be brilliant suggestions like considering the capital view corridors to be an asset. I heard a comment earlier that other cities have found that inclusionary programs didn't work and I want to call your attention to cities where it did work and communities where it did work. There are a number of small cities, there are counties, there are areas with downtown like chicago, seattle and smaller downtown like arlington, virginia, where an inclusionary housing program has worked. So I think it's very important to make sure that something like that works here in austin. I have a copy of a letter from pastor elwood who was not able to stay to speak with you. I want to make sure you have your attention on that. Moving to cure, I heard a comment from the president of the austin neighborhoods council that we've been kind of back and forth on cure, and it's certainly true. If you look at the recommendations of the community's own commission, originally they said [inaudible] staff recommendation on cure. Well, that changed, so if you read it it would be confusing. The position is now the cure -- that cure needs to go. It's a loophole. The consultants recognized it as a loophole. It needs -- this needs to be worked out and done away with, I believe. It's not helping us. We've had a number of properties come through the cure zoning. You compare the cost with [inaudible] say it would cost to create affordable housing for the homeless to what we could have generated if those properties had paid in lieu fees prescribed by the

inner density bonus we would be a long way to reaching that goal. So we missed out. We shouldn't. I mean, downtown should be for everyone. Downtown should include affordable housing. Other cities are able to do this. When the council adopted the affordable housing incentives task force recommendation, we made an agreement on what the fees should be, that was developed by a broad consensus of development interests, housing advocates, all sorts of people served on that committee. We met every week for nearly two years, and council adopted -- we took progressive steps but there was still the loophole of cure. That loophole needs to be closed. The fees need to be left in place and allowed to work. Downtown should be everybody's neighborhood, just like the consultants said, it needs to be everybody's neighborhood. We have an opportunity before us, can we set this plan in place to make a difference for a long time what downtown is and lower income people should be a part of downtown. Lower income people work downtown, they come downtown. They should be able to live downtown. thank you.

Spelman: mayor? council member spelman. I have a question for you. As you mentioned, a couple other speakers who said density bonus programs don't work. You can't generate any affordable housing that way and you mentioned a couple places, I think you said chicago and arlington, virginia, where they have been. In your experience, what distinguishes places where the density bonus program works from those where it doesn't work?

What I've studied -- I've studied montgomery county's program in most detail, and as soon as it started out, developers came in and wanted waivers, and people thought that the county board of commissioners would wave the requirements. They didn't. They stuck to them. And that became a standard. Development worked around it and it came to fit. And that's how they were able to achieve thousands of units of affordable housing. are there other -- montgomery county, [inaudible] the example, famous example --

the most famous, right are there other examples like that?

The arlington ordinance is structured so that they have -- rather than fees they've actually achieved the units.

You mentioned chicago.

In chicago it's been more of an ordinance that generated fees but I believe it's also generated some units. and they've actually worked [inaudible] satisfaction in chicago?

Yes.

Spelman: thank you. Jennif jennif er McVeil?

I'M jennifer McVeil and I'm here on behalf of dap [inaudible] texas, and i wanted to start out by pointing out that people with disabilities, many of whom are on ssi, the ssi level of income is 674, which is \$8,088 a year. And that's very, very, very low income. And as people age, that's going to be more common for a lot of families, and we have no housing stock to meet that demand. So we wanted to see that the cure loophole gets closed, that there be deeper subsidies for truly affordable housing downtown, because even the downtownies want to age in place. We want that to be possible for people, and many times when people become older and need long-term care, what they're forced to see is spin down, so they have to spend or give up their assets in order to receive services because those services are generally expensive when you pay for them out of pocket. So you want people to be able to live and work in downtown that are very low income because it's the right thing to do, and we really encourage you to look at creative ways to find more subsidies, increase the in lieu of fees so that people can actually enjoy their golden years or, you know, someone like me who wants to, you know, enjoy every part of their life and -- I would like to live downtown. It would be very convenient for me given the fact that i ride the bus. You want to encourage people to give up cars and think about the environment? Well, it has to

be practical too, and this is one way to and it's a lot nicer to have little old ladies as your neighbor than some potential other folks, so it's just something to keep in mind. You know, little old ladies that live next door to you generally, if you're nice to them, bake you cookies and bread and stuff at christmastime. So those are the types of neighbors you want, and you want to encourage people to be able to enjoy themselves. And being low income shouldn't criminalize people, but a lot of times when we're talking about poverty, that's what it does. It's us and them. You will not see low income people right now living downtown, and that's wrong. Thank you. thank you, jennifer. So heather way has signed up neutral, not wishing to speak. Steve gerner and michelle haussmann have signed up for not wishing to speak. Those are all the speakers that I have on my list. eleanor McKinney has signed up. eleanor McKinney. Did you just get here? Okay.

Good evening, mayor and members of city council. As many of you know, i worked on the interim density bonus and have been working on the [inaudible] advisory group and I really just wanted to speak to the purpose of density bonus. And the fact is that all the density bonus options have been vetted by the community. When projects have come before the council and gained pure zoning and proffered their own ideas for trade, for increased entitlements, that has not gone through a community vetting process. The density bonus options that are on the table for you now with affordable housing, child care, elder care, green roofs, sustainability, et cetera, have been through the community vetting process. This is your community and this is what we want. We want to be able to get something that does benefit the community as well as give the property owners their benefits as well. I just want you to kind of laser that down. I did go to portland. They had heights that were much lower than ours, and they're downtown, that height, those heights are very sustainable. As you all know, it's a very wonderful city. So to say that our baseline of [inaudible] far is too low and will not make a great city, I think is missing the point. I think we have to look deeper than just height or far as what will make us a great city. Thank you. thank you. Is there anyone else signed up to speak whose name i didn't call? Those are all the people that we have on the list, so the floor is open for discussion by council. Ultimately to consider an ordinance amending the austin tomorrow comprehensive plan by adopting the downtown austin plan. Mayor pro tem. first of all, i would like to thank tim robinson and george adams and all the stakeholders who are here and all the stakeholders who have not been here for this long stakeholder process. And we do this in austin because we believe in our city, and it is a great city, but the risk we always run is that our dreams will get put on the shelf. So I made the motion, and council member morrison seconded it, to postpone this item until today because when I first passed through it, I saw it still did not have a [inaudible] austin [inaudible] that connected to our entire city. And I know a lot of my colleagues today, including myself, are going to make a number of amendments, but sometimes we get caught up in amendments or particular like cocktail lounges or we forget we're talking about the area where [inaudible] park is, or downtown, football games for all our students. And we might focus a little bit on the lake, but we forget about the [inaudible] district and the predicted medical center and waller creek and the capitol redevelopment. And so we have a great downtown [inaudible]. So along with my staff and other people we've put together a group of stakeholders, and I want to give you all the web site that will soon be up, downtownaustinconnect, and there's a video on there that kind of lays out a vision for this plan. With that being said, i think the most important part of that vision and video and recognition of the stakeholders is that i wanted it to be abundantly clear to the public that we are not going to take this off the shelf and begin to make some things happen until and when our whole city recognizes downtown as [inaudible], and that can only happen if there is a true public and private partnership. So I want to thank all the people who worked on putting that -- those efforts together, the city of austin, of course, and the vaa and the waller creek folks and the medical center people and the downtown redevelopment people. But I still think there are some things that need to be addressed, and I have some amendments. The first one I'm going to pass out has to do with the three -- well, I'm sorry, let me make a motion that we adopt the downtown plan. motion to adopt the staff recommendation for the downtown plan by mayor pro tem cole, second by council member spelman.

[Inaudible] council member morrison. Go ahead. do you mean the downtown plan version november [inaudible] plus the list of all the staff recommendations on top of it or are you starting with the downtown plan [inaudible]? the most recent downtown plan, I don't remember the [inaudible] I'll provide it [inaudible] yeah, the staff recommended -- they provided a list of recommendations, and on august 25,

2011, it's about six, eight, ten pages.

Cole: I tell you what. I have not -- I have seen this, but I have not studied it. So I am going to make a motion to adopt the plan without the staff recommendations at this point for discussion purposes. so it's the november 2010. so it's the november 2010 version. is that -- is that a clarification of your original motion?

Cole: yes.

Mayor?

Cole: okay. And I am passing out the -- I gave it to you, right? The first proposed amendment regarding the density bonus program, and I believe you have that. Let's put it up on the screen. This particular amendment deals with the issue of three bedroom houses -- i mean, three bedrooms should not be granted when -- for affordable, and the idea is that the three bedrooms are really penthouse and downtown. And this is consistent with the planning commission recommendation in their may 25, 2010 resolution, and also what the affordable housing [inaudible] recommend, and the downtown neighborhoods agreed to that policy. And most three-bedrooms are rented by nonfamilies, and i think this was the same recommendation that was made by the families and children's task force that council member tovo sat on. So I think that we need to do away with the three bedroom [inaudible]. so you're proposing an amendment to your motion, which -- your original motion, which is seconded, so you're proposing that as a friendly amendment? And that would have to be accepted by the second. mayor, may i suggest that instead of friendly amendments we would just be incorporated in the main motion. Perhaps we could take this amendment and all subsequent amendments as formal amendments. I think we're going to get real confused, given all the amendments that are likely to be coming off the dais this evening, and if we adopt them as formal amendments and vote them up and down, I think we'll be a lot less likely to get confused where we are. I'm confused already. But you can -- you can modify your original motion. I would prefer not to. -- for an amendment. Is that what you're talking about? I would prefer -- the maker of the motion may wish to modify her original motion, and that would be fine, but i would prefer that rather than continuing to modify one motion, that we take one motion as a floor, as a baseline, and then adopt or take down individual amendments along the way. So a formal amendment process rather than a friendly amendment process. that's what I thought I was doing, but you want -- you're recommending or suggesting a vote on each individual amendment? that's what I'm suggesting, mayor, yes. and I agree with that. So [inaudible] a motion to reconsider, and -- no, i don't think you want to do that. I guess I don't know -- council member spelman, why don't you tell me exact -- let me ask the city attorney. Can we proceed in this wait to vote on a series of amendments or would it be considered a substitute motion?

Mayor, I think you can, of course, amend the main motion or you could -- someone could actually bring forward a motion to substitute. So it's -- it's -- I guess the intent currently that council member wants to amend. I think you have two options here.

Mayor, I have a question. Go ahead. that's what I'm getting at, the way -- if there's no objection, this is the way we'll proceed. We have a main motion on the table. Now we have a motion to amend the main motion, which is the three bedroom bonus. and can we vote on that? you can get a second for that --

yes, you can get a second. You have to vote on the amendment.

Cole: okay. So we have a main motion on the floor, and we have a second for that, and the main motion is to adopt the downtown plan and then I am making an amendment to that motion that needs a vote regarding the three-bedroom bonus and we need to take a vote on that. well, we need to get a second. Mayor pro tem cole moves to amend the original motion. Is there a second? I'll second for purposes of discussion. second by council member spelman. And do you want to discuss your -- well, as I said before, [inaudible] the recommendation that was made by the planning commission on may 25, 2010,

that has the support of the affordable housing advocates and the downtown neighborhood, it is basically seen by those groups as bad policy because most families do not live in three bedrooms and we end up with penthouse.

Mayor leffingwell: right. We heard that. I actually meant, did you wish to add to that? Because I thought council member spelman [inaudible]. All right. Continue then, please. and I also believe that the family and children's task force discussed it. So I'd like to talk to council member tovo about that. , you know, i actually, if I may -- council member tovo.

Tovo: thank you. Oh, I'm sorry, I didn't wait to be recognized. Since heather way did sign up willing to answer questions, if I may, mayor, ask her to come up and provide -- help me remember through this.

Mayor leffingwell: sure. so I would just say that we were very interested and wanted to see guidelines, mayor pro tem cole, that encouraged three bedroom units, because it's -- it is more likely -- they are more likely to get families in them if they are three bedrooms. But if you would chime in here.

It's been a while since i looked at that particular part of the downtown plan, but what we were looking at is a way to provide family friendly housing, number of bedrooms were one key piece but there were other aspects of that. I think it was three bedrooms as well as open space and jim robinson might -- robertson might be the best person to speak to what those others -- if they were all bundled together or if the density bonus was just tied to 3 bedrooms. I don't think we ever voted on the families and children's task force [inaudible] if it's affordable. that was my memory, that we did talk about -- council member tovo wants to ask robertson a question, she can do it.

Tovo: okay. Thanks. I'm going to do that in a minute. Thank you. That was my memory about it, we did talk about the number of bedrooms being important because I think the research we did suggested that families would live in smaller units if there was a higher bedroom count. So a three bedroom apartment could be very appealing to a family, if they were in multiple bedrooms. But I don't remember. I know we discussed tying it to affordability but like you I didn't remember a recommendation coming out of that tying it the three bedroom to affordable. robinson can ray raised. Heather --

I want to make sure it wasn't just -- [inaudible] occupied by families. We want to make sure that those units are family friendly and also occupied by [inaudible]

tovo: right. And so this would seem to achieve that in some ways. Okay. Thanks. Mr. robertson?

The density bonus programs recommended by the downtown plan includes, if you will, a menu of community benefits that can be used as a way of achieving additional density through the density bonus program. One of -- one of the areas of community benefits is affordable housing [inaudible] the provision, the payment of a fee in lieu or for providing on-site affordable housing. But there are several other community benefits as well. There are six of them, and one of those is family friendly housing, and there is a bonus there, the way it's articulated here, 150 square feet of bonus space for each bedroom for over two bedrooms that is constructed. That's not -- that's a separate community benefit from affordability. It was not, as I recall, intended to promote necessarily affordability per se, but to flurnlg larger units -- encourage larger units that would be available for families. Of course, as I said, the affordable housing benefit is one of the major benefits of the density bonus, but it's a separate one of the community benefits. thanks for that clarification. so could I -- could I ask -- so the -- you brought up the point that three bedroom is a bonus separate from affordable housing. So then I understand this amendment would seek to eliminate that and have three bedroom bonus apply only when it's affordable. Is that the intent?

Yes.

Mayor leffingwell: okay. So you won't have three penthouses counting as a density bonus.

Yeah.

Mayor leffingwell: okay. And could i, just for i McOWN EDIFICATION, I'M Still a little bit vague on which -- what the base motion is. The one that we're considering, as I as I understood it -- let me just ask you - - the motion on the table, does it eliminate pure zoning or does it -- is it the latest staff -- does the latest staff recommendation secure zoning?

As I understand the motion on the table -- the motion on the table is to adopt the downtown plan as it was stated in the november 2010 draft of the plan. which would eliminate cure zoning?

Correct. would not include the restrictions on the panhandle area?

I don't believe -- well, I don't think there's anything in the density -- in the staff recommended amendment that [inaudible] those districts. Fyi, the staff recommendation is to adopt the downtown plan including the staff recommended amendment. You have in front of you that list. I should note that -- first of all, I should note that we -- in order to -- in an attempt to bring clarity and lack of confusion to it, we provided you with a list in a renumbered format. That's the only change we made because the way I had mistakenly set it up before there were two number ones and two number twos. It's now just numbered sequentially, 1 through 61. You have that in front of you. If anybody wants copies we have additional copies here. The -- now, I should mention that 50 out of those 61 staff recommended amendments were approved by the planning commission. They were all available to the planning commission in april when that was presented to them. So those already have planning commission approval. Our staff recommendation is adoption of the downtown plan with the staff recommended [inaudible].

Spelman: mayor? council member spelman. allow me to make a procedural recommendation. I believe most of us have been working off of the downtown -- working off the assumption that the downtown plan we were going to be taking is baseline for the one which included staff recommended amendments, and many of us have recommended changes to the staff recommended amendments or other amendments on top of that. That seemed to most of us be the baseline that we were going to be working off of. So with your permission and with permission of mayor pro tem cole, perhaps we could lay on the table the amendment before us right now, put in the formal amendment to add to the main motion the staff recommended amendments just to get that baseline trued up with i think most of our expectations and then we could work off of a draft robinson was expecting us to work off of. I think it would be easier for staff and for most of us if we try to do it that way. so staff suggests that you make that as a substitute motion, that we consider -- outline your motion again and make it as a substitute motion so we'll know where we stand on this.

Spelman: with -- yes. Mayor, I make a substitute shaw is about to correct me.

And I'm sorry, not correct you, in fact, but perhaps expand just slightly on what you were about to propose.

Spelman: thank you. You know where I was going.

In hopes of simplifying the project. You will notice that in front of you you have an ordinance that contains not only direction to adopt the downtown plan, but also to adopt staff's recommendations, and in addition some other items.

Spelman: right.

Direct the city manager to implement the code amendments as recommended in the plan, directing the

city manager to initiate the rezoning that is recommended in the plan, directing the city manager to include the capitol project identified in the plan, et cetera, and directing the city manager to develop a detailed plan for creating a central city economic development corporation. If I were to make a suggestion, if we were to adopt -- or to recommend approving the ordinance and then work from there with these amendments that we are making, we could amend any of those items, eliminate items, change items and then we wouldn't have to come back and clean things up later. Excuse me. [One moment, please, for]

Mayor Leffingwell: Is there a second to that substitute motion? Is there a second? Seconded by the mayor pro tem. Okay. So.

Cole: Now we have to go back.

Mayor Leffingwell: Now we talk about -- we can have a discussion, but it would be to amend the substitute motion.

Spelman: Thank you, mayor.

Mayor Leffingwell: So councilmember cole.

Cole: I would like to make an amendment to the current motion and to eliminate the three-bedroom proposal.

Mayor Leffingwell: Proposed amendment to amend the substitute motion to eliminate the three-bedroom bow nuts. Is there a second for that? Seconded by councilmember spelman. Councilmember morrison?

Morrison: Are you -- just a clarification. Is there going to be a three-bedroom bonus only granted as stated here (indiscernible).

Cole: Target for downtown. The bonus would be awarded for any bedroom to establish the affordability charge for downtown and in accordance with the planning commission's recommendation.

Mayor Leffingwell: Councilmember spelman.

Spelman: Help me. What are the established affordability targets for downtown? Are these the same as those which would allow for density bonus for affordability or are they different? I'm not sure I understand the meaning of the words here.

Cole: I will have to dan robertson come up. [Inaudible].

The one target you could choose to use in terms of a metric for affordability would be the metric recommended in the density bonus program, which has one target for rental housing, which I think is affordable to 80 percent and below with affordability requirement for I think 30 years, although I'm not sure. We could look that up. But for ownership units it would be between 80 and 120 with also a requirement that it be maintained as affordable. I believe that was for like 99 years. So that is one metric you could use to tie this to, which is already part of the recommendation of the downtown plan.

My understanding with the planning commission recommendation is that it would be in addition to the affordable housing densities, you get a certain amount of density by providing the affordable housing, but if some of those units were three bedrooms for each 150 square feet, you get an additional density for that. And that's in line with the recommendation of the taskforce. And the 99 years is actually on a rental. And I can't speak to the home ownership affordability terms, if it's 99 years. Did I answer your

question?

Cole: Yes. That was very helpful.

Mayor Leffingwell: Okay. Motion for amendment. Any further discussion? All in favor of the motion say aye? Opposed say no. It passes on a vote of seven to zero. So amendment number 1 to the substitute motion is adopted.

Cole: Okay. I have another amendment. Will you please put it up? This one has to do with open space and provide for a fee in lieu for open space. And it basically says that the density bonus program shall allow for fee in lieu to achieve the goals of publicly accessible open space. The fee schedule shall be calibrated on the same timeline as the rest of the program.

[Inaudible].

Mayor Leffingwell: So mayor pro tem, that's your second amendment, is fee in lieu for open spaces. Does everyone understand, had a chance to look at that amendment?

Tovo: No.

Cole: Will you put it up on the screen? Can you see it? Mayor, let me withdraw that amendment until I have a copy of it to pass out.

Mayor Leffingwell: Without objection, the proposed amendment is withdrawn.

Cole: Mayor, I have one more amendment. Besides that one. I need to get a copy of the open space. You do have it?

Mayor Leffingwell: I've got it.

Cole: You've got it. Well, let's share with bill. Okay. The -- I'll put that amendment back on the table.

Mayor Leffingwell: The amendment to add a fee in lieu for open space, okay.

Cole: Basically it's the recognition that we have [inaudible]. Of course, affordable housing has been paramount to our discussion, but we've also talked about many of our open space issues. It's just not consistent to expect that we've had in our discussions for families and children to live downtown and we don't have funding for many of our parks or that bring more housing downtown we really need the amenity of open space. That's what this amendment does.

Mayor Leffingwell: Is there a second to that amendment?

Spelman: For purposes of discussion.

Mayor Leffingwell: All right. Councilmember morrison.

Morrison: So I guess the question would be how would we determine the fee in lieu?

Cole: The planning commission made a recommendation on may 25th. It was number 25, that was parks advocate and the d.a.a. And it's also my understanding that the staff concurred with the flexibility.

Can we get some comments robertson on that one?

Tovo: Mayor?

Mayor Leffingwell: Councilmember tovo.

Tovo: While robertson is coming up, can you tell me again, i have the planning commission recommendations in front of me, but I don't have a number 25.

Cole: No, it's may 25th. It's number two.

Mayor Leffingwell: While you're thinking about that, just for clarification purposes, your substitute motion is to approve the public hearing and approve on how many readings? First reading only?

Cole: Yeah.

Mayor Leffingwell: So councilmember tovo, are you --

Tovo: I thought mayor pro tem had the floor. So I'll just jump into it. I have the planning commission number two in front of me and I'm trying to understand how it meshes with -- I guess we don't have it up there -- with the amendment we have in front of us. The planning commission recommendation talks about density bonuses should be permitted in exchange for on-site open space that's publicly accessible and meets well-defined criteria or fee in lieu that could be used on downtown parkland. Mayor pro tem, did you have a question for mr. robertson?

Cole: Go ahead.

Mayor Leffingwell: Could I just ask for one thing? It's getting very confusing. Instead of going back and forth asking questions from councilmembers, people in the chamber and staff members, please ask your questions of the staff members and if we can't answer that, we'll try to get clarification from whoever made the motion to amend or whatever we're dealing with. It just gets too confusing going back and forth.

Tovo: I'm happy to ask robertson, but the mayor pro tem cawd him up here, so I'm yielding the floor.

Cole: I will yield the floor to councilmember tovo.

Tovo: Okay. robertson, can you tell us a little bit about the planning commission recommendation and how that would work and what the -- how those fees were going to be calibrated for the fee in lieu that was contemplated by the planning commission for open space?

I have in front of me the same that you have. I think the planning commission number two, which is the proposed something along the lines as councilmember cole's motion. That you could either meet this obligation by providing on-site publicly accessible open space or you could pay a fee in lieu. I don't believe the planning commission specified a means for doing that calibration. And our staff response was we concur with this recommendation. That sounds like a good idea. We noted that we would have to calibrate a fee in lieu. Standing here tonight I'm not sure exactly what the methodology for that would be. I think what -- the kinds of things we'd be looking at would be trying to get some sort of quantifiable sense of the value of additional square footage and then -- make that equivalent to a fee in lieu contribution that would go to open space. As I said, right now standing here tonight i don't know exactly what that would be, but I think we would try to look at the value of the additional density and then

translate that into a fee that would be paid for open space.

Tovo: Can you give me a sense of what the public discussion has been like around this issue? I know that from time to time as when the process first began there were -- there was a much broader discussion about community benefits and what should be included in that list? And I thought there was an effort to sort of narrow down to just a few community priorities so that they're not all competing with one another. Was open space something that arose early and then was eliminated to focus on other key benefits?

You're right on the money with that one. One of our six guiding principles that we state in the density bonus program was that we believed the most prudent program would have a limited set of community benefits, so instead of getting a little contribution to a lot of different benefits you would get a significant contribution to a smaller handful of benefits. But having said that, one of the topics that came up during our discussions with the density bonus was not only the actual provision of publicly acceptable open space, but something along the lines of this, which was paying the fee in lieu to do it. So in some ways it's not adding an additional community benefit, it's just adding a different way of meeting that community benefit just like affordable could be met by providing an on-site (indiscernible). So I think in some ways this is not totally abandoning the idea but maintaining the benefits.

Tovo: Okay.

Mayor Leffingwell: Councilmember Riley.

Riley: [Inaudible - no mic]. On the actual capital purchases -- actual purchases of real estate or would you have the flexibility to use this money to support operations in parks. Parks?

I don't know the answer to that. The planning commission, I believe they said city staff needs to clarify whether fee in lieu payments could be used for park capital improvements or also for maintenance. I know there are limitations on the parkland dedication fee. This sounds like it's a fee program or it's a program independent of that. So I don't know that it would inherently be bound by the same limitations as -- limitations as parkland dedication.

Riley: I was going to ask the maker of the motion for clarification on --

Cole: Yes. Mayor, it is my intention that it can be used for, of course, capital costs, but also operations. More importantly, operations because that's where we have the major decisions. And I would like for that to be part of the calibration, the recognition that we have the (indiscernible), which is basically the planning commission recommendation.

I do think that is something that we would want to look at given it's something that came up tonight. With your direction we would look into that issue.

Cole: Absolutely.

Mayor Leffingwell: Councilmember Morrison.

Morrison: I'm reading the whole planning commission recommendation here, and it identifies that the funds have to be spent downtown. Should I assume the recommendations for the motion is really the planning commission recommendations?

Yes.

Morrison: Okay. That's helpful. And one question is for staff, can you give me a question of how you would even calibrate a fee in lieu like this? Does that make sense? Is there some foundation upon which to base this?

I don't know the answer right now. The only fee in lieu we currently have in the program is the one that we did for affordable housing. And in doing that we looked at -- that was our pro forma exercise to look at project economics. And essentially pay forward the value of additional density and require something less than the full value of the additional density go into affordable housing fee in lieu. I think we would probably look at that similar analysis here trying to put a value on an additional density, make sure that the paid fee in lieu does not exceed the additional value created by the density and work from that point.

Morrison: And then just one other clarification before you leave the dais. We're working from the planning commission recommendations from may 25th, 2010. Were these recommendations all adopted by the planning commission?

Yes, they came to you in the form of a memo submitted to you on behalf of the planning commission.

Morrison: Okay. Thank you.

Mayor Leffingwell: Any more discussion on this amendment? Which is, as I understand, basically planning commission recommendation number 2.

Cole: Exactly.

Mayor Leffingwell: All right. All in favor say aye?

Tovo: Mayor, I have a question. Sorry to ask this additional clarification, but what we have in front of us really isn't the same as the planning commission recommendation 2. So what are we voting on exactly?

Mayor Leffingwell: Well, I believe mayor pro tem clarified some moments ago that she was talking about the planning recommendation 2.

Tovo: So it's the density bonus should be permitted for on-site public space that is accessible and meets the criteria or fee in lieu that could be used to improve downtown parkland. That's what we're voting on.

Cole: As set forth in the planning commission recommendation (indiscernible).

Tovo: Thanks.

Mayor Leffingwell: All in favor say aye? Opposed say no. That amendment is adopted on a vote of seven to zero. Okay. So now we have substitute motion, first reading with two amendments adopted. Are there any other amendments? Councilmember morrison.

Morrison: Thank you. I would like to make -- i think I mentioned in the work session that one of the interests I had was in making sure that we built the framework for our bonus densities to be open to the time when we might have a different demand for residential versus office, and that right now essentially the first 50% bonus density for residential comes in the form of affordable housing with a fee in lieu of \$10 per square foot, the first 50% of commercial comes essentially free. So what I was doing is changing the perspective on this and saying the first 50% always comes with a requirement. The requirement at this point based on what we've calibrated for commercial is zero dollars per square foot - per square foot of density. And so it essentially makes no change, it just opens up the structure so that 10 years from now when we go back to calibrate it, if, for instance, that the pro forma for commercial

comes out differently, we've already got the structure in place that says okay, maybe that will be three dollars now instead of zero dollars. And so what I wanted to do was to adjust the density bonus requirements for nonresidential projects to follow the same structure as those for residential projects by including a fee in lieu for affordable housing for the first 50% , while acknowledging that due to existing market conditions this fee is currently recommended to be zero dollars per square foot, but as part of the regular recalibration process it can be adjusted to meet the new market conditions. So it doesn't change anything about what the practical aspect of this would be of the -- of the plan would be today, it's just that 10 years from now when we recalibrate and get new pro forma examples, it might change and we might have a new figure for commercial.

Cole: Mayor? How does -- is that a part of the -- is that a modification of the staff recommendation?

Morrison: Yes. It's sort of -- yes, it would be a modification of the staff recommendation.

Cole: What number on the staff recommendation?

Morrison: Oh, it's not on the staff recommendation.

Cole: So it's not a staff recommendation. robertson to explain how this method of recalibration would work as you have proposed it? Compared to how councilmember morrison has proposed it?

I may need a little clarification as to the motion. I think in part I understand it. The -- let me start with what the current staff recommendation is and then kind of diverge from there. The current staff recommendation is that for nonresidential projects, those projects seek additional density, they would be to meet the initial -- what we call the gate keeper requirements. But that once they did that, the first 50% of the bonus area -- let's say they had an eight to one far, it could be achieved without doing anything other than meeting the gate keeper requirement beyond an far of 12 in that hypothetical case they would have to participate in the program. Now, what -- where I get confused is if the fee in lieu was set at zero under our program, beyond 12 they have to participate. They have to earn, if you will, their additional density through one of the menu of options.

I'm not suggesting that we change that in terms of going beyond the 50%. I'm just saying that the first 50% right now we think about that as not having to pay a fee in lieu for affordable housing. I'm saying let's think about it as being zero dollars per square foot right now. Whereas for residential, that first 50% is a five-dollar per square foot. So rather than saying just -- rather than building in to the system that we just never looblg at the first 50% for commercial, the change in the perspective is we've already looked at the first 50% in commercial this time around and it's zero dollars per square foot.

And beyond the 50% they would participate fully.

Morrison: Just like you have. It's just a change in the way we think about that first 50% for commercial. lcialg in other words, it creates the structural framework that can be modified later if the calibration showed --

Morrison: Right. I think that that can help us 20 years from now the balance we have between commercial and residential changes radically or the demand for those changes radically.

Okay. I understand that. I think that moving forward in dropping this program we could -- in developing this program we could structure it that way.

Mayor Leffingwell: Mayor pro tem.

Cole: robertson, you're looking at that as sort of a minor recalibration for future efforts, the way I've

heard comments in the discussion (indiscernible).

I think my understanding is that you would be treating all project kind of like in terms of setting up a framework by which they participate in the program, but you would at least neshly be making a distinction between residential and nonresidential projects in the sense that nonresidential would still get -- there would be a structure for a fee in lieu, but initially it would be zero up to 12 far, beyond the 50% bump they would participate in the program just like we've proposed.

Mayor Leffingwell: So put in even simpler terms for me, the density bonus would apply to every structure that exceeds the current limitation except that for non-commercial that density bonus would be zero.

Nonresidential.

Morrison: For the first 50%.

Cole: [Inaudible].

Tovo: Mayor? I'll just point out that that is consistent with some of the feedback we've heard from various stakeholders, including from the real estate council, who in their letter to us dated SEPTEMBER 23rd, 2011, THEY Recommended that fee in lieu paid by developers to support affordable housing should be assessed not only on residential, but also on commercial and mixed use. So that is consistent and i think the amendment we're considering does make the program across the time of a structure. I think that's a very good change.

Spelman: I would like to point out an additional bonus and perhaps, councilmember tovo, you mentioned this because i didn't hear everything that you said. One additional value is if the situation changes and we realize that developers systematically are choosing office and hotel as opposed to residential because they could get a density bonus for free, t we will have an opportunity to recalibrate a density bonus for fee in lieu of affordable housing against office and hotel to write that balance. So we're not getting a downtown which is entirely commercial and not residential.

Mayor Leffingwell: Further discussion on this amendment? All in favor? All opposed say no? It passes on a vote of seven to zero.

Spelman: Mayor?

Mayor Leffingwell: Councilmember spelman.

Spelman: I have another amendment. Although we could do this in pieces, I believe it will be most -- it would be easiest to do this all at once. Let me propose a rather lengthy amendment and the piece of paper is coming down. The elephant in the living room the last few months has been cure and this is a proposed amendment to item 57 that would be staff recommended amendment 57, which changes the rule of cure of the downtown density bonus program. Let me explain what it is i have in mind. It states the city manager is here by directed to revise the downtown density bonus program such that first, cure is no longer available as a means of achieving additional height and/or density floor to area ratio downtown. Let me stop for a moment. I don't believe it is -- cure has some benefits to us so long as we restrict it from using cure as a means of a need to achieving additional density or additional height. For parking, for some site restrictions, perhaps for setbacks or step backs cure can be a very useful tour, tool. But it has been used as the staff mentioned, all projects that have applied for cure since the creation of the program in 2008 have received cure. No one uses the density bonus program because cure is available. I think we need to stop that loophole and tighten up our density bonus program making it the only means available for a developer looking for a density bonus. That's the first thing I'm

suggesting in this amendment. That we eliminate cure as a means of getting additional height or getting additional density. Now, the reason cure was put in the first place is to provide developers with options, flexibility if they have, for example, as we've talked about at some length, probably too much length on tuesday, a different means of providing for a fee in lieu rather than lump sum payment all at once before the building is completed, before it's leased out, but they haven't got any money. It might be possible for the developer to provide more money for affordable housing if it were in pieces over time instead of two million bucks right now it might be easier to provide half a million dollars for a year over a 10 year period. That is that a whole lot more money would be a lot more valuable to the city. If it were spread out over time it would be a lot easier for developers to meet. That would be one possibility. Another set of possibilities might be to deal with site specific situations, (indiscernible), shoal creek, you have a site hemmed in by two historic structures and there's a way of making the building more compatible with the historic structures on both sides. For example, there might be a lot of options available which we haven't thought of yet. That have not codified the density bonus program because we cannot consider any possible site and every contingency. But there's a value in flexibility. The problem is cure is there's for (indiscernible) to it. The remainder of this amendment is aimed at providing curelike flexibility, but with a discipline which would eliminate the get out of jail free card, eliminate the waiver of density bonus restrictions. The remainder says the density bonus program will allow limited flexibility with regard to types and amounts in excess of a floor of community benefits provided by the applicant. The idea here is let's establish a floor based on the density bonus program and if you can meet that floor in a different way we can consider it. The floor will be set with respect to downtown density bonus based on the value of -- back up. The density bonus program is an allah cart thing. There's a bunch of different ways of getting a density bonus. Some of these are easily monetizable. Some of them are not. The one which is easiest to monetize, the one for which is simplest to come up with a dollar figure, is a fee in lieu for affordable housing. So looking at all these options, I figured the easiest way to do this to figure out that floor would be to lose the one for affordable housing. For that purpose the floor will be set based on the value of 100% of the affordable housing fee in lieu prescribed by the program. If the applicant chooses not to proceed with the administrative process, density bonus program is an administrative process, giving you the requirements, doesn't have to come to city council. If the applicant chooses not to proceed with that process by paying the fee in lieu or providing on-site affordable housing based on the program's parameters, the other way you can do it, the applicant is responsible for demonstrating monetized value of benefits. It provides the benefits in an alternative form, have you to show us you're spending the same kind of money on something different. Staff will administratively evaluate the proposal to make sure the offered community benefits meet or exceed the value of the floor. So if you would ordinarily be up for two million dollars in benefits for affordable housing, you've got to show that you're going to provide two million dollars' worth of benefits in a way that the staff can veelt the cost of those benefits before we will even consider it. Second, on one half of the fee in lieu amount must be for affordable housing. You can't use this as a means of quitting affordable housing responsibilities entirely. If you would ordinarily be up for two million dollars in affordable housing fee in lieu you would qualify for density poe bonus, least one million or more of that final, flexible density bonus that you are proposing and that would be for affordable housing. The rest of it could be for something else. If the floor is met or exceeded by the staff recommendation, they've actually evaluated your proposal and said yep, we're talking about two million dollars of real cost to the developer, at least a million dollars of which is going to be provided in the form of a housing fee in lieu, then the staff would then sphamp it as yes, this is okay. This passes minimum muster, and allow the council to consider it. At that point we could consider whether or not on balance this is a good idea or a bad idea for the public. But we would not even get a chance to consider whether it's a good idea or bad idea for the public unless the developer is spending the same kind of money they would have to spend on the density bonus program and at least half of the money spent is in the form of a fee in lieu for affordable housing. That's the proposal. My apologies for it being so complicated. But establishing the floor and trying to create discipline at the same time turned out to be complicated. Mr. robertson? [Laughter] this is what happens when you've confused your public, you change the subject and see if someone else can share the burden for you. Have you got a copy of this?

I do, yes. Thank you.

Spelman: Do you understand what I'm trying to do here?

I believe I do. I've got a question or two to make sure I understand.

Spelman: Please.

One thing I want to make sure I understand is in the paragraph about a floor will be set, it says if the applicant chooses not to proceed with the administrative -- choses to provide with the administrative process by paying the fee in lieu or providing on-site affordable housing based on the parameters and I assume it would be for the other means provided.

Spelman: Yes.

Or any of the other density bonus items might be a way of expressing that. And then when you were explaining it, I think i heard you say with regard to the minimum amount for affordable housing, that would be a minimum of one half. In other words, if a project chose to pay 75% of affordable housing and then the other 25% by some other method that they bring forward, that would be acceptable. That would be a minimum of one half of the fee?

Spelman: I plead typographical error. Instead of one half of the fee in lieu, I should have said a minimum of one half of the fee in lieu.

Because I think when you verbally explained it, i think you said at least.

Spelman: Yes.

May I clarify one point as well that will help me sleep at nice if this passes? On the subject of affordable housing, as I understand -- although I was a bit -- let me clarify from this last statement you just said. My initial reading of this was to understand that affordable housing was compulsory. You cannot get around affordable housing. You have to provide affordable housing by a set formula, thus complying with our need for a voluntary program.

Spelman: If you are interested in a density bonus program which -- if you want to take a advantage of additional flexibility and propose different community benefit, that is on the al acart menu.

But affordable housing density is there. I want to make sure i understood.

Spelman: Does anybody understand this besides mr. robertson and me?

Cole: No.

Spelman: How can I help you?

Martinez: I believe he has a motion on the table and I'll second it.

Mayor Leffingwell: Second by councilmember morrison. Go ahead.

Morrison: I want to make sure I understand because the way I understand this -- the density bonus program for residential you would have to do a certain amount for the first 50% and then community benefits ,could be more affordable housing, could be fee in lieu for the second 50%.

Spelman: That's correct.

Morrison: So in that case the floor is if you paid a fee in lieu for the full amount, not just the first obligatory 50%, is affordable housing.

Spelman: Right. You qualify for density bonus, absolutely.

Morrison: I'm asking what the floor is. The floor is the whole shebang, if you've paid it all in affordable housing, not just the 50%? Not the first 50%?

Spelman: Let me start from ground zero. I've got a building of a certain size. I could qualify for density bonus for an additional 200,000 square feet. That would be an additional, say, 50% of far would be 200,000 square feet. \$10 Times 200,000 square feet is two million dollars. So that would be under ordinary circumstances the density bonus requirement where you get that 50% increase in far, two million buck fee in lieu. What this is suggesting is another way that you can meet it, you can spend one million dollars in fee in lieu or forefor affordable housing and the remainder of the two million dollars, a minimum -- a maximum of a million, it could be less than that. The remainder of that two million dollars could be spent on some other alternative benefit which is not on the al a cart menu. The following conditions, first the staff have to be able to verify that you're in fact spending two million dollars. And second, the council has to agree. Second step of the process, the council would have to agree that whatever you're proposing is somehow more valuable to the public than two million dollars in affordable housing.

Morrison: So it's about being more affordable housing, not about any hardship of not being able to go by the density bonus program?

Spelman: Absolutely not. And this would include the staff amendment that would state that it would require an plibility to demonstrate the proposed project has achieved provisions to the maximum amount feasible. Sorry. You have to achieve the density bonus program, period.

Morrison: As part of your motion, you are recommending that item 57, the last bullet in that.

Spelman: And replace with that.

Morrison: So I guess --

Spelman: That was one of the reasons why I like to do this on first reading because I suspect there may be other cases like this, robertson suggested a couple of changes to the draft in front of you, which I would like to have a chance to incorporate. A minimum of one half of fee in lieu amount, for example, if you would. Continue. My apologies.

Morrison: I hope there will be other questions and comments.

Mayor Leffingwell: I have one question. Real world example. Last week the planning commission recommended approval of cure zoning for a hotel. 16 To one far. How much would they have to pay with your density bonus?

Spelman: What is our affordable housing requirement on hotels? We haven't passed it yet. But I believe the affordable housing requirement for hotels right now is zero dollars per square foot. And you would ordinarily be entitled to a 50% far just by getting through the gate keeper requirements of great streets and elevation and -- what is the third one. Green building. Thank you. No, it's not green building. Whatever the three gate keeper requirements are, you have to get through the requirements. At that point if you're an office or hotel, you would be entitled to an immediate 50% increase in far. At some

point we may calibrate and decide that the proper thing do to do other.

Mayor Leffingwell: What far? You said you would immediately be entitled to what far?

Spelman: A 50%. Whatever the base zoning was. I don't know the base zoning of the hotel you're talking about.

Mayor Leffingwell: Eight.

Spelman: So it would be 12.

Mayor Leffingwell: And what about 16?

Spelman: This by itself would not be sufficient to qualify if there are 16, but there are other density bonus provisions in the al a cart menu which might very well provide a 16 to one far for that particular hotel. But this would only get them to 12.

Mayor Leffingwell: Okay. So unless they can find another way, they would have to pay density bonus for the 16. Everything above 12 to one.

Spelman: There are several ways of doing it. There are several things on the menu which they could take advantage of.

Mayor Leffingwell: Councilmember morrison.

Morrison: I did have an opportunity to talk with those folks recently and it's my understanding that their plan -- they thought right off the bat was actually taking them to 14 to one far because they are doing three star and some other things. It was going to be very close.

Mayor Leffingwell: All right. So we have a motion here for an amendment by you, seconded by councilmember morrison.

Tovo: I have a question, mayor.

Mayor Leffingwell: Councilmember tovo.

Tovo: Councilmember spelman, I'm struggling to make sure I understand your motion here. Help me understand how this will be different from what I've seen in our current scenario sometimes, which is we have developed -- we've had developers come and ask for a cure rezoning and say the affordable housing provision would have been two million dollars, but 5 million on great streets. So how is your proposal going to prevent that from happening from developers coming forward and saying that their meeting this community benefit provision through community benefits that I would argue in the end make the project more marketable? How are you guarding against that?

Spelman: First of all, if it's just great streets it would have to meet the great streets requirements just to get through the gate. That would not meet the density bonus requirement. Below ground parking, for example. And we believe some developer may reasonably claim that they should qualify for cure zoning because they're doing below ground parking rather than above ground parking. This would not eliminate that as a proposal they could make if the difference between below ground and above ground parking were a million dollars. Then they might reasonably say two million dollars would be the requirement for affordable housing, we'll spend a million dollars in affordable housing and the other million dollars on below ground parking. That might be a proposal they could make. What this does do, however, is it

makes clear what it is that we're giving up. You're going to give us a million dollars for affordable housing, that's great. A million dollars for below ground parking, that may be great, but we have to choose whether the million dollars for below ground parking would be more or less valuable to the city as a whole than another million dollars for affordable housing. And that trade-off would be very starkly provided to us right here. You have to spend a million dollars on something, you have to spend a million dollars on parking, we can make the decision. If parking is more available than housing. For me it almost never would be. But if the developer would like to try to make that case I think they should be entitled to do so.

Cole: Mayor, I have a question.

Mayor Leffingwell: Councilmember Morrison and then Mayor Pro Tem Cole.

Morrison: I wanted to ask our legal staff if they could give a comment on -- I thought one of the important elements of density bonus program is sort of no negotiations. And is this moving us toward that or are you -- do you feel it's a nice, safe harbor?

The point really I think you're referring to our discussion on Tuesday. And the negotiation was a problem, when particularly we're talking about affordable housing, again sort of my earlier question, affordable housing needs to be set. We aren't going back and forth with affordable housing issues. On other issues, I think all the time in past, say, cure cases, applicants have come and heard from council and perhaps adjusted what they were doing. You might characterize that as negotiation, I suppose, but I think it's somewhat inherent part of what's happened in the past. So my real concern is only that in affordable housing we are not having these discussions and numbers that change. It needs to be a set program.

Morrison: So when he says here staff will evaluate to make sure the offer of community benefits meet or exceed the value of the floor, that's just a yes or no. You're suggesting it's not a negotiation at that point?

I think that's just a threshold question. I'm not in any way thinking about how valid those numbers might be. That's up to staff to determine. But it sounds like that's just a threshold question. I don't really see a negotiation issue there. Unless I'm misunderstanding the question.

Morrison: Okay. And then the other part of the council determines whether the proposal is more meaningful to the community. And it makes a discretionary decision.

You always have legislation discretion in all of these issues. Ultimately it is up to you regardless of if they pass the threshold in staff's opinion ultimately it all comes back to council.

Cole: I have a question of Chad and (indiscernible). I'm trying to determine if this amendment as written would allow the flexibility for the council to consider affordable housing using funds from the fee in lieu, specifically for affordable housing contributions at 30% or below median family income because we have passed that resolution in connection with our goal of 350 units. So we're talking about affordable housing, but I'm wondering could any portion of the fee in lieu or that is automatic in this language.

The fee in lieu in the program that we've recommended for affordable housing would go under the affordable housing trust fund. So any money that went into that fund would simply be subject to any of the limitations that apply to that fund. I don't have it right now, but I believe they have a fair amount of flexibility as to how that fund gets spent. So in terms of the levels of affordability and so forth. So I think it would provide that flexibility that we mentioned.

Cole: Okay. Because my concern is that on the one hand we want affordable housing downtown, but

then we don't recognize the issues that we have with the homeless or from zero to 30% or our downtown and live music. No matter what we do, they can't afford to live downtown. And so could the fee in lieu, just like we're contemplating for a blow grade parking, could that by the developer be designated or -- designated by council to be used to support permanent supportive housing or 30% throughout the city? Is that -- is that implied in this amendment?

I think as I said, wait we've structured it, any fee in lieu would go into the affordability trust fund. The community housing development channels all money into the affordable housing trust fund into projects that are at least below 80 percent and I think they have the ability to channel some of that money or any portion they need, best use of the money, to projects that are even below 30%. They're not mandated to direct that money towards 30% at or below projects, but they have that ability.

Cole: So I recall that when we saw the break down of the directions that neighborhood housing had done, they do break it down so that really is a fudges that they perform, and this does not prohibit that.

Correct.

Cole: Okay.

While I'm up here, may i offer what is maybe a little housekeeping thing? Councilmember spelman's motion says amend item 57. 57 Actually contains several things in addition to -- it contains -- it is shown in letter a. Thanks to microsoft word that was supposed to be a bullet, but the first bullet under cd 1. I think the only thing you're proposing to substitute for is the last bullet under item 57, which appears right before item 58. All the other --

Spelman: My motion. I'll say it's absolutely correct.

I think I was the one who -- I was the one who actually said and you mean to also include the deletion of the last bullet?

Spelman: That's correct.

Spelman: So a reading would have been simultaneously that councilmember morrison and robertson to substitute this language just for the last bullet.

Yeah.

Martinez: Mayor? I'll be extremely brief. I want to -- I think councilmember spelman has come up with something that's creative, and I'm going to support it, but with the understanding obviously that this is just first reading. I realize folks have a lot of questions. I will be asking questions. But this is just first reading. And if we make it to third reading, we will monitor this -- and I say if. We will monitor this closely. What I see this as in being creative, I think it's a really unique blend of all of these competing interests. The only down side -- one of the down sides that I see as it relates to affordability downtown is that it may slow down the achievement of that affordability if prospective applicants come in and continually say only 50%. I really want to apply the others to -- so we'll just monitor that. But it may not have that negative effect. That's the only small down side that I see. But I think it's a very creative proposal and I'm happy to support it, at least on first reading for now to keep things moving forward.

Spelman: Thank you, councilmember. May I respond very quickly? Two reasons for believing that the concern -- I have exactly the same concern. And if less money is spent on affordable housing and more money is spent on below ground parking or other things that were not loud in the density bonuses for a reason, then I would be very concerned about the result. However, it would be much quicker for a developer to get through the density bonus program and be able to begin working on their project if they

could qualify for the density bonus program through an administrative process and not have to first qualify for staff and second and get to a city council meeting and get through us. The fastest way to get to the density bonus is through the downtown austin plan in front of us. This is an amendment to the rules that would be a little bit more cumbersome, more time consuming and therefore I suspect that a bunch of developers would say I would kind of like to do that, but it's a pain in the neck. I would pay the two dollars, do the affordable housing and keep going. Thanks.

Tovo: I appreciate your creativity. I think you've been trying to come up with a way that we can preserve affordability and support our downtown density bonus program and still address some of the other questions that have been raised or some of the other comments. I do believe that this will definitely chip away at some of the money that we have for affordable housing. And that gives me some concern. I wonder if there's another way at getting at some flexibility allowing for some flexibility without making it sort of a standard operating procedure embedded as it is in this proposal from the best I understand it of what you've laid out here. We do have two more readings to work it out, and I guess at this point I would be most comfortable starting with a base of the downtown density bonus program and giving it some more thought over the upcoming weeks and thinking about using our work sessions as a way of talking about some of the floor and the other aspects of this. So I would like to make a substitute motion that we amend 57 -- may I do that?

Mayor Leffingwell: We're voting on an amendment.

Tovo: My preference would be at this point that we start with an amendment that removes that last bullet. Which we've already talked about the final sentence in the last bullet item on page, etcetera, that removed sciwr.

Mayor Leffingwell: I think we're on uncharted ground here with regard to robert's rules of order.

Tovo: That's fine. I have -- I like the first part that removes that last bullet. I have some concerns about the system that you've laid out in terms of the floor and the way in which that might move money from affordable housing into other community benefits. I would appreciate the opportunity to talk a little bit more about that before it gets added in as an amendment.

Spelman: If my amendment fails I will happily second your motion.

Mayor Leffingwell: Councilmember morrison.

Morrison: Sorry to prolong this, but I want to do two things. First I want to confirm that my understanding is correct that basically the fees calculated on the 100% of the bonus area, I understand the way that it would chip away at our ability for a affordability. As it is right now, the commercial property can come in, they get the first part as zero dollars per square foot. And then to achieve the rest of the bonus density, they can do other community benefits, some of which -- one choice is affordable fee in lieu. So this -- if commercial property wanted to take advantage of this, what councilmember spelman has laid out, they would actually be required to do some fee in lieu whereas of right now -- we would be able to do some fee in lieu with this proposal whereas the density bonus program right now would allow to choose other kinds of community benefits to participate in.

That's correct. Nonresidential projects without this amendment could meet their density bonus requirements without any affordable housing contributions under this amendment projects that need to earn additional density would be required to provide at least 50% of the benefit of affordable housing. [One moment, please, for change in captioners]

what it does is it's basically fs which was approve zoning with benefit oh demonstration of how much could be done or why it could be done. Basically the same as that. So I think it accomplishes the same

goal. mayor, I have a question. council member tovo. I believe the exchange I just heard between council member roberts clarified that this proposal will indeed apply to nonresidential properties? It will? Thank you. That was a helpful exchange. any other comment? All in favor of the amendment say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. Any further amendments? Council member riley. I've got a few that I wanted to suggest. First with respect to the warehouse district. We've had some input on that, actually I think as long as we've been talking about the downtown plan the warehouse district has been a controversial subject, and it's not because there are disagreements about the -- about the value of the district. It's because there are differences in how -- what's the best way to go about preserving it. The current staff recommended approach, as I understand it, entails a 45-foot height limit over the core part of the district, which is that one block between colorado and lavaca. And we've had a lot of concerns -- we've heard a lot of concerns about that, especially from the property owners on that block who feel it's unfair to single them out, and with such a restrictive standard. And so what I would propose, and this relates to recommendation -- hp 22 on page page 71 of the plan is remodify to allow staff to explore [inaudible] for preserving the historic character of the district without imposing a strict height limit. Such tools can include an overlay, design standards and review of permits by the historic landmark commission. is that your motion? I second it. So a motion on the table, basically, to explore other options and to eliminate the 45-foot height limit of warehouses. Any discussion on that? Council member spelman. I'd like to ask a couple questions of mr. robertson. Jim, the way we've been dealing with the warehouse district is through tradeable development rights. You get 45 feet but you also get rights to additional height and density, which are tradeable, you can't use them but you can sell them. And one of the arguments I thought for all that you mentioned a moment ago I thought would just get in the way but now I can say since my amendment has at least temporarily passed, is if we eliminate cure, then you can't get those for free. The density bonus, now we've established effectively a cost for your density bonus at \$10 a-square-foot, and now your tradeable development rights do not have a free alternative. If you want to get a-square-foot it's going to cost you 10 bucks. That's about how much those tradeable development rights are going to be worth, maybe a little bit less. Do we have an example in other -- some other city for tradeable development rights similar to what it is we're t about for the warehouse district?

Yes, it's a pretty commonly used tool. For example, others on our team may choose to supplement what I say, but for example, in new york city there have been [inaudible] theaters that created tdr programs whereby unused development capacity on the parcel that [inaudible] by a theater can't be sold as a tradeable development right. Other cities have used it for historic resources, whereby unused development capacity on the site of a historic resource can be conveyed as a tradeable commodity. So the notion of tdr that -- as proposed here is a fairly well-accepted and pretty significantly used tool for -- to preserve a particular asset. remind us, if you can, what tradeable development rights would be available for owners of property in the warehouse district.

Any unused development capacity between their existing building square footage and their entitlements. In other words, if a parcel had cbd zoning, which allows an 8 to 1-a fr, and let's say the amount of-square-foot annual they either currently use or propose to use, something less than 8, let's say it's two, then they have the equivalent of six far worth of tradeable development. 6 far with footprint, so it would actually be measured not in far but square feet.

It's square feet, yeah.

Spelman: okay. And there's now -- there would be a value, presumably, for getting that number of square feet, or something to buy those square feet for something.

Yeah, it's a way for project participating in a density bonus downtown elsewhere could acquire their density as an option of the density bonus program, acquire tradeable development. I should mention,

just one clarification. We've proposed basically three primary tools for warehouse preservation. One of which is the 45-foot height limit for that one block 4. The other two are the tradeable development rights. Third one is we've already proposed development standards that would reply apply throughout the warehouse district, which is a broader area as we defined in the plan on page 70 of the plan, and those have to do with preserving [inaudible] facade, setting back -- stepping back the development beyond a facade, preserving the elevated, you know, sidewalks where they exist because those are a remnant of the industrial past there and so forth. So as for 45 b, tradeable development rights and then development standards.

And the development standards, like the 45-foot height limitation, would actually put an obligation on owners. Is there anything we could do to supplement the tradeable development rights in exchange for the obligation we've put upon them for maintaining the facade, maintaining the sidewalk in its current status? Is that something we consider somewhere along the way?

I don't think I followed your question. I apologize. two of the -- you mentioned three things that are happening in the warehouse district, two of which are obligations of the owner and one of which is an opportunity. The first obligation comes -- one obligation is 45 feet is as far as you get split fact if you're a -- you can't use the 8 to 1 far. You can only use the 2 to 1 far. So that's one limitation. The sec limitation is you got to limit the existing sidewalk the look and feel and you can't eliminate the building structure and replace it with [inaudible]. The third thing -- I'm glad I got you to laugh. It's a good time for architects to laugh.

[Inaudible] considered a historic structure.

Nowadays it's considered 50 years old. There you go. The third thing is -- you can trade development rights. I wondered if there was any consideration given to increasing tradeable development rights or providing anything else in compensation for the maintenance of the facade and sidewalks?

No, even the development rights are really not -- they're an additional tool. They're not designed to be a compensation. They're one of the three pieces in the toolkit. The development standards we're proposing are really in some way very similar to the existing development standards we already have for congress avenue or sixth street, where there is facade protection, step backs above certain heights and things like that. It's sort of three alternative tools in the cool kit we recommended.

Spelman: thanks. yeah, I just want to -- as i understand it, individual buildings, individual properties with regard to their historic value would still be protected. It's not affected by this removal of height limitation as proposed in council member riley's amendment. I'm not asking --

yeah, the removal -- yeah, any individual property is still subject to historic designation, preservation. Any further discussion on this amendment? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no?

Tovo: no. and it passes on a vote of 5-2 with council members tovo and morrison voting no. And council member spelman voting no also. Passes on a vote of 4-3. Any further amendments?

Mayor? council member riley. I also would like to offer one other amendment, going back to the subject of affordable housing. We do have -- I think the mayor has made suggestions a couple times now about the possibility of looking to our tax base downtown as an opportunity to support affordable housing, and in discussions we've had about other cities we know that there have been other instances where that has been done successfully. In fact, even here we do have a mechanism currently in place on

properties that were previously held by the city, currently under -- currently 40% of the tax base from those properties goes to the affordable housing trust fund. Then there are a lot of benefits to that sort of funding mechanism because it provides a reliable, steady funding stream, which is especially important at a time when we're interested in permanent supportive housing, that require an ongoing revenue source as opposed to a one-time capital investment. So what I'd like to suggest is that we direct staff to explore potential funding mechanisms to support affordable housing in and around downtown. Could include 40% allocation on properties previously owned by the city, other tools drawing on the tax base so ampted with projects, fees associated with events and other potential tools based on best practices in other cities. This amendment would relate to item a u2-1 on pages 82 and will 83, which talks about supporting affordable housing and it really just seeks to build upon that by asking particularly for a particular focus on creative tools that -- like those that would [inaudible] the tax base [inaudible] affordable housing. is that a motion? Motion by council member riley, second by council member martinez. mayor, I have a question. mayor pro tem? first, I'm trying to -- I totally support having staff research creative tools, but I'm trying to make sure that -- and I understand we can modify those tools -- that the amendment that council member spelman made which allows flexibility as to the community benefits that are offered from [inaudible] street to -- we added open space, would still be a part of the tool that -- I just don't want you to give direction for 40% only for affordable housing. mayor, if I could respond? I just want to be clear, there's a basic conceptual difference between this amendment and the one that council member spelman [inaudible]. Council member spelman's amendment related to our -- an effort to secure affordable housing and other community benefits through the developer of the project, and essentially it's piling expectations on that developer and extracting benefits from that developer. This approach instead would actually look at the tax base associated with the project. It would not -- it would not pile additional expectations on the developer. It would simply say that we are going to recognize that there is additional tax base to work with associated with the project, and that we may be able to [inaudible] that. We just heard last week or two weeks ago from some folks in atlanta who have a tif in place in downtown to support affordable housing projects. We don't -- I don't know that we need -- that we want to go with a tif necessarily since we have other needs that we hope to address through tifs, but there may be mechanisms like utilizing other tax base or different approaches such as events on fees, downtown or elsewhere. Our fees [inaudible] downtown or elsewhere to support the housing downtown. Just looking for other potential tools to support what is a community-wide need as opposed to trying to extract -- trying to meet that need solely the resources of the developer of the project.

Cole: okay. The only thing I would suggest is I know this, and I know that I can make a friendly amendment to the amendment, but I notice that you said city-owned property, and I think we should say any governmental entity-owned property, especially in light of the space contemplated redevelopment and the massive amounts that are beginning to come up in county land, in light of a potential partnership. the reference -- council member riley. the reference to owned by the city is simply describing what we currently have in place, 40% -- it applies to, like block 21 that were previously owned by the city. So that is -- and currently that funding stream, which is several hundred thousand dollars a year, does affordable housing, but not -- not necessarily downtown. In fact, as far as I can tell none went to downtown, [inaudible] tenant based rental assistance and other worthy housing needs elsewhere in the city. So the suggestion is that as that fund continues to grow that we consider tapping into that fund to support some housing downtown.

Cole: I can support that.

Mayor leffingwell: okay. A motion and a second on the table. Council member riley? Is there any further discussion on that? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no? That passes on a vote of 7-0. Anything further? Council member morrison. thank you, mayor. team was here reading a letter from the heritage society, and one

of the things that they were suggesting is that it should be stipulated that parcels that include designated austin city landmarks will not be eligible for density bonuses, and I think I don't agree with that because i think we've seen some examples recently where there's been some good development in association with historic landmark properties on congress, for instance. But I did want to make sure that we got clarified, that got very clear in the plan, that a density bonus and the ability to add a lot of density should not overwrite our value for the historic landmark property where it exists. So I wanted to clarify that where density bonuses are permitted on properties zoned h historic, development utilizing a density bonus shall maintain the architectural integrity of the historic landmark as determined by the historic landmark commission, and so I'd like to make a motion, but I don't know exactly where in the plan that would be, and I would need some help from staff. well, would it be an amendment to this motion that we're dealing with? yes, it -- because that's what we're dealing with right now. yes, so it's a motion to include that language in the text of the plan at the appropriate place. so the amendment -- I think i understand what you're saying, but it's an amendment and substitute motion, basically to keep historic properties -- keep protection, which I would assume is already done. I guess it doesn't hurt to reinforce that notion. Is there a second for that? Second by council member spelman. Anything further? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. Anything further? Council member riley. we haven't talked about the cocktail lounges -- I'm sorry? oh, we haven't. no, no, and I want to make sure -- and there is currently a staff recommendation on that that represents an amendment to the plan that we have. It's amendment 8 on page 80, and as I understand it and, jim, if I can get -- help me make sure we're reading it correctly, the current staff recommendation no longer calls for making cocktail lounges a conditional use, but it suggest that we explore ways of addressing the overconcentration of cocktail lounges; is that correct?

The current staff recommendation is -- the current motion.

Yeah, that's no. 8. A modification from what was in the november 2010 draft. That november 2010 draft says make cocktail -- basically says make cocktail lounges a conditional use. 8 pulls back from that a little bit and says, that it's just a flat-out recommendation [inaudible] conditional use, we looked at a variety of tools, [inaudible] to deal with the issue of overconcentration. The current recommendation is reflected in no. 8. well, then I would like to offer an amendment to build upon the staff amendment, and I think -- I've heard concerns out of the sixth street district that doesn't make much sense, but the owners of lounges on sixth street, for instance, went through a burdensome [inaudible] process, when it is a very well established entertainment district, there are areas like rainy street where some tool like [inaudible] process, could have real value. So what I would like to add is -- add just look on the staff [inaudible] two things. One is we direct staff to focus in particular on areas outside recognized entertainment districts, namely the p 6 district and the warehouse district, as defined in the -- in the noise ordinance, and on red river between 6th and 10th street. It's really a fairly well -- the fairly well established entertainment district. And secondly, I would also like to suggest in reference 3 on page 80, that staff make recommendations on [inaudible] for other uses, such as use of the business retention enhancement program, city participation in utility infrastructure improvements and expedited review of permits. The whole goal is to make sure we maintain a healthy balance of uses downtown and that means not just clamping down on ones that are particularly problematic but actually encouraging and promoting uses that would be particularly helpful in our effort to achieve a healthy mixed use. And so -- and so that's what I suggest. So to summarize, the two suggestions are, number one, to focus efforts on restricting cocktail lounges on the -- on the review of cocktail lounges, focus efforts on areas outside existing -- currently recognized entertainment districts, meaning sixth street, warehouse district and red river from 6th to 10th. And secondly the staff make recommendations regarding incentives for other uses to -- such as those i listed, to ensure that we maintain a healthy mix of use in downtown. motion by council member riley, secked by mayor pro tem cole. Let me make sure i understand what you're saying here. Basically you're saying that conditions -- there would be no conditional use permits required in the downtown area, but -- in existing entertainment districts, like 6th, the warehouse district and red river. so

everywhere but east 6th and red river a conditional use permit would -- actually I'm still thinking of staff's amendment. So it's not necessarily a up but I like staff's approach of looking at all the available tools. Because even cup process wouldn't be ideal to deal with all the issues associated with [inaudible]. There may be other ways we can address that, for instance through -- you know, we've made a lot of progress with our -- our music department staff, and there may be ways that they can help us form late - - so your amendment really doesn't do anything but ask them to explore some options. to focus on areas outside existing entertainment districts and secondly, to promote incidents for other uses to achieve the balance, as opposed to just restricting cocktail lounges. I made the second and it's generally my understanding that we're giving staff instruction to look for other more -- additional creative tools to encourage other uses in areas besides those in the entertainment district that are being affected by conditional use because they're cocktail lounge. for example, rainy street?

Cole: rainy street. all right. Anything further? All in favor of that say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. There is -- if there are no other proposed amendments i have one last issue that we have to address in some way, and that is a conflict on the part of council member riley and council member tovo. So I think probably the easiest way to handle this would be to ask to make a substitution motion and second of that substitution motion, if we can modify the motion to say approve the ordinance, for item 77 as we have just amended except as it relates specifically to the northwest and uptown capital district or downtown planning areas. And you are the second is this. that is followed by two additional alternati -- we'll have to go through that. So we're ready to vote on that motion as amended and as modified just now. All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on first reading on a vote of 7-0. And now we're going to need to have a second motion that council member riley not participating to approve the same ordinance that we just passed as amended and as modified as it relates specifically to the northwest district of the downtown planning area.

Spelman: so moved. so moved by council member spelman. yes, I just want you to know I'm recusing from this because I own property in the northwest district and I have filed the paperwork with the city.

Cole: second. second by mayor pro tem. Further discussion on that? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. And finally 6-0 with council member riley recused, and 3 with council member tovo. Do you want to speak to your potential recusal? Coffee coffee yes, mayor and council I am recusing myself on this item because I have a significant interest in a company that owns property within this district and i have also filed the appropriate paperwork with the city clerk, which is an affidavit [inaudible] so this motion would be to approve the same ordinance that we just passed twice, except this relates specifically to the uptown capitol district of the downtown planning area. Someone make that motion? So council member morrison, seconded by council member spelman. All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no? Passes on a vote of 6-0 with council member tovo recused. I never thought we'd get through those about an hour ago. Okay. And wre almost through.

I believe you just passed those three motions on first reading -- oh, yes. The public hearing is closed, three motions passed on first reading only.

And we can bring this back next week -- we'll capture all the amendments that were made tonight and bring them back to you next week.

Mayor leffingwell: okay. No hurry. Whenever you're ready. [Laughter]

we'll be ready. We'll be ready.

Cole: 2015.

Mayor leffingwell: okay. I hate to bring this up. [Laughter] 19, and we feel relatively sure that this is all correct now? But we need to reconsider 19 and consider 3 to item 19. mayor, I move to reconsider item 19. council member spelman moves to reconsider, second by council member morrison. All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. So we will reconsider revision no. 3 to item no. 19, Which I believe you all have in your possession. Motion to reconsider by council member morrison, second by council member -- pardon?

[Inaudible] motion 3 by council member morrison, second by council member spelman. All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. So I believe that's all we have on our agenda tonight, so without objection we're adjourned at 9:30 p.m.
